SENATE—*Thursday, June 12, 1986*

(Legislative day of Monday, June 9, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Sovereign Lord, we thank You for the profound reality that security and freedom meet in Your providence. On our own we discover they are at opposite polls—we seek security at the price of freedom—sacrifice security for the sake of freedom. With profound gratitude we thank You that Your sovereignty guarantees complete security and perfect freedom. When we live independent of You, Gracious God, we become dependent upon forces beyond our control. When we live in dependence upon You, we find true independence and the assurance of fulfillment of our personal destiny. Thank You, Lord, for the greatest of freedoms—choice. Help us to realize that we enjoy that freedom as we choose Your will for our lives and diminish that freedom when we choose our own way. Grant us wisdom and the will to choose Your way. In His name Who lived to do Your will. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator BOB DOLE, is recognized.

Mr. DOLE. I thank the distinguished President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, let me indicate that under the standing order the leaders have 10 minutes each. I reserve the time of the distinguished minority leader, who will be here a bit later.

Then there are special orders in favor of Senators HAWKINS, PROXMIRE, WALLOP, GORE, HEINZ, DIXON, MURKOWSKI, KERRY, HUMPHREY, SASSER, SPECTER, and HART.

Routine morning business, if there is any time remaining, will follow the execution of the special orders until 11 o'clock, at which time we will go back on the tax reform bill, H.R. 3838. Pending is the Grassley amendment No. 2070.

Mr. President, I think I can indicate for the managers on both sides of the aisle that they are very pleased with the prospect of finishing the tax reform bill this week. We hope that is a good prospect. There is no reason it cannot be completed this week.

By this week, I mean probably by 4 o'clock tomorrow afternoon. That might entail a late session this evening.

I would think, with the chairman indicating there would be votes on Monday, it would be in the interest of all of our colleagues to complete action this week and not have to worry about any votes on Monday. If we complete action on the tax bill, I would be in a position to indicate there would be no votes on Monday on any matter.

If that is an incentive, and hopefully it might be, that would be very helpful to the chairman, Senator PACKWOOD, and to the Democratic manager, Senator LONG.

INTEREST RATES

Mr. DOLE. Mr. President, interest rates have come way, way down over the past year. Following the discount rate cut in April, the prime rate fell to 8.5 percent. That is the lowest the prime has been in 8 years.

All around, this is outstanding good news for the economy. But it could be better still—interest rates should be even lower. Let me explain why.

A few years ago, everyone was complaining about very high real interest rates: The stated rate of interest, discounted for future inflation. Those high real rates were attributed to our large budget deficits and our rapid recovery from recession. Now, interest rates have come down—but what has happened to inflation?

The answer is, inflation is on its knees. Consumer prices actually fell in the first quarter at a 1.9-percent rate. While no one expects that trend to continue, it is pretty clear that inflation in 1986 will be lower than we have seen in a long while: under 3 percent, maybe even 2 percent or less. If you compare that low inflation with a prime rate of 8.5 percent you figure real interest rates must be around 6 percent. That is not low at all. To this Senator, it seems clearly too high.

POINT OF CONTROVERSY

Mr. President, I know my colleagues are aware that the Federal Reserve's action or inaction on the discount rate is a point of some contention in the financial community. The discount rate—a key indicator and symbol of Federal Reserve policy—is also an issue in our continuing discussions with the other developed nations on the issue of coordinated exchange-rate policies. When the Fed cut our discount rate in April, Chairman Volcker considered it important that Japan and Germany undertake similar actions at about the same time. That was done, and I think most people would agree it was a favorable development for the world economy.

The point I want to make is that there is room for the Federal Reserve to move further in this direction. The American economy and the world economy will, on balance, benefit from further reductions in interest rates.

WHY THE NEED IS THERE

Mr. President, the economy is doing well. Growth in the first quarter was 3.7 percent. But there are some mixed signals out there. As everyone knows all too well, the farm economy and the energy sector are not enjoying the fruits of economic recovery, as the rest of the Nation is. No one was pleased to see unemployment creep back up to 7.3-percent last month, even if the change had a lot to do with the impact of low oil prices on employment in the energy industry. The 7.3-percent rate is still too high.

With inflation low, growth rates less than we want, and plenty of unused productive capacity, a strong case can be made for another cut in the discount rate. Just consider all of the problems such a move could help solve.

Any move toward lower interest rates can help boost our economy and reduce the deficit as growth picks up. And the interest-sensitive farming and manufacturing sectors can use all the help they can get. Lower interest rates also reinforce the new realism in the valuation of the dollar: Surely the most important weapon in our battle to reduce the trade deficit. What is more, another drop in world interest rates can help relieve the excessive debt burdens of many of our friends and allies in the Third World, and spur the economic growth in Europe and Japan that many believe is the key to a better balanced system of world trade and finance.

AN ANTI-INFLATION POLICY

Mr. President, let me make absolutely clear that I oppose, and will always oppose, any attempt to reinflate the economy to create the illusion of

growth. That disastrous policy brought the economy to the brink of collapse in the Carter years, and it must be rejected absolutely. What I advocate is that the Federal Reserve strike the right balance between accommodating growth and restraining inflation.

We in this Chamber have a corresponding obligation to adopt policies that minimize the risk of renewed inflation. That means promoting productivity and economic efficiency with comprehensive tax reform: A reform that, in the case of our Senate bill, also holds promise for reducing interest rates by combining historic tax rate reductions with limits on deductions for interest payment. Further, and most importantly, it means following through on our commitment to meet the Gramm-Rudman-Hollings deficit targets. That cut in the Government's revenue appetite for debt will do a lot to keep recovery on a steady path, provided it is achieved through real—I underscore real—spending restraint.

If we can do all that, with a little help from our good friends at the local central bank, the economy should be in good shape for a long time to come.

□ 0940

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MCCONNELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

THE SALT II ACCORDS

Mr. BYRD. Mr. President, as I carefully read and listened to the President's remarks on the SALT II accords last night, he indicated that movement or progress in the arms talks in Geneva would be the key standard in his decision this fall as to whether to arm the 131st B-52 with cruise missiles. That action would break through the restraints of the accords. Despite the rhetoric of some of his advisers, he also indicated that decision to throw out the SALT II restraints had not been made and would depend on progress in arms reduction talks.

Third, he indicated that the differences in the force structure between the United States and Soviet arsenals and the complexity of those two arsenals are major complicating problems in reaching a fair meeting of the minds.

The Soviets have the main strength of their nuclear arsenal in the land-based intercontinental missiles. That is not the case with us. We have the triad—the land-based missiles, air-launched missiles, and submarine-launched missiles. So it is, indeed, difficult to come to a fair meeting of the minds when such complexities are involved. Obviously, renewed efforts to reach such a meeting of the minds, however, is in order and even with the vigorous good-faith actions on both sides, this process takes time and hard work.

Last, the President indicated an open mind toward arms control progress this year as the key standard by which continuation of the no-undercut policy would be judged. So he obviously has not been boxed in concrete by some advisers, who apparently try to put words in his mouth.

Mr. President, I think the President has heard the message that Congress and our allies have been sending to him. There is a message in all this for Mr. Gorbachev as well. For Mr. Gorbachev's part, he ought to agree now to a definite summit schedule in order to galvanize the arms control process. For our part, we need to promptly assess and respond to the latest Soviet proposal so that it can be said that we are doing all we can to move the process forward. I have no doubt that our negotiators are doing just that.

So the rhetoric, Mr. President, on ending constraints should end and the President's advisers need to take a cue from the President.

I yield the floor, Mr. President.

ORDER OF PROCEDURE

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President——

Mr. PROXMIRE. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Senator from Wisconsin has a special order first, it appears.

Mr. WALLOP. Mr. President, I have no desire——

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. WALLOP. Mr. President, I regret the Senator from Wisconsin left the floor. I had no intention of moving in front of him in the order of things.

The PRESIDING OFFICER. It quite possibly could have been a mistake of the Chair. The Senator from Wisconsin was listed prior to the Senator from Wyoming for a special order.

Mr. WALLOP. I have no intention of moving in front of him. I merely sought the floor because I did not know the order.

The PRESIDING OFFICER. The Senator from Wisconsin has left the floor.

RESERVATION OF MINORITY LEADER'S TIME

Mr. BYRD. Mr. President, I have a little time remaining. I was only going to ask either of the two Senators if he wished to comment on what I have said. I thought one of the Senators might want to do that. That not being the case, I ask unanimous consent that I may reserve the remainder of my time for the rest of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR WALLOP

The PRESIDING OFFICER. The Senator from Wyoming is recognized under the previous order.

Mr. WALLOP. I thank the Chair.

SALT II

Mr. WALLOP. Mr. President, I rise today to applaud President Reagan for his decision last week to end unilateral U.S. adherence with the fatally flawed, unratified, and violated SALT treaties.

As I interpreted his remarks last night, I did not see any indication that he intended to back off of that intention. He has announced his intention to exceed the SALT II limitations on cruise missile bombers sometime in November. This decision, a long time in coming, finally lays to rest two agreements that do not support U.S. national security because they have done, and can do, nothing to constrain the Soviet military buildup.

Today, I would like to address the contention that dropping SALT II will permit the Soviets to increase tremendously the strategic threat to the United States, while retaining SALT will prevent this.

Critics of the President's decision have stated that an unconstrained situation will favor the Soviet Union because they have a greater breakout capability, more hot production lines, and an unconstrained budget environment. All this smacks of making a virtue out of a necessity. What these Senators are actually saying, though they would not admit it, is that the SALT II Treaty doesn't do anything to improve the unstable strategic balance, in fact, it enshrines it, but since we are unwilling to do anything about it ourselves, they say we may as well lock ourselves into strategic inferiority.

If they mean that the treaty is no good, that it is injurious, but it is the best we can get and the Soviets might

punish us by deploying more missiles and warheads than they already have if we drop the treaty, then I understand their argument. I understand it, but I do not agree with it. The same argument was used for not responding to acts of terrorism with force: If we expose terrorists for what they are, they said they might retaliate against us, and we Americans have not got the will to sustain our own policy. There is a desperately false premise behind this argument: It is that we cannot compete with the Soviet Union or anything else in the world which challenges us. Well, of course, we can compete, and, Mr. President, we must. Their argument assumes that we must cut the best deal with the Soviets we can, even if the terms are unequal and even if the Soviets do not live up to the limitations and their own words.

How ironic that those in Congress who support SALT II for these reasons also are the ones who most often vote consistently against establishing the capability for this country to compete strategically with the Soviets. When we are talking about more United States missiles, or keeping production lines open, or not cutting up submarines that still have a useful life, then we are told we would be provocative, destabilizing, or promoting an arms race with the Soviet Union. At least, then, we have narrowed the terms of the debate: No one is speaking of the virtues of SALT II any more, only of the relative importance of its defects.

But this whole argument is made irrelevant by the facts. Conservatively, the Soviets will add over 4,000 ballistic missile warheads to their arsenal over the next 6 to 7 years within the SALT II limits. No wonder, as one SALT II supporter recently pointed out, that the Soviets have not violated many of the numerical limits. They obviously do not have to. To demonstrate that SALT II is not arms control but arms build-up, the United States, Mr. President, could deploy 820 MX missiles, each with 10 warheads. That is over 8,000 hard-target warheads. Now we have been debating in this country for over a decade whether to deploy 50 or 100 MX, and in that period of time the Soviets have deployed over 800 MX class missiles. Do any of the Senators who support SALT II suggest that we deploy 820 MX missiles? Of course not. Most of them vote against any MX deployments.

The Soviets, on the other hand, will continue to increase the size of their force by replacing their SS-17 and SS-19 missiles, with 4 and 6 warheads respectively, with their new SS-24, with 10 warheads, a great increase in security for Americans. I have heard Senators argue in this Chamber that our MX deployment is destabilizing because it represents a potential first strike threat to the Soviet Union. But why do these same Senators not display the same concern, nay greater concern, for the Soviet build-up, a build-up which is out of all proportion to the threat posed by the United States and a build-up which was undertaken during the first 15 years of the SALT process?

Another approach of those criticizing the recent decision is the scare tactic. Some have postulated preposterous threats that are neither economically or strategically rational. We hear about threats of 20,000 to 30,000 Soviet strategic nuclear warheads—20-30 warheads piled atop the huge Soviet SS-18 ICBM—huge increases in the construction of new Soviet ICBM launchers. These scare tactics conjure up the image of a Soviet Union just waiting for the moment when they are released from the treaty to engage in an arms race. Why don't we stop, look, and listen. The Soviet Union is already engaging in a one-sided race.

They have added over 7,000 strategic warheads to their missile since the signing of the SALT I agreement and have been able to reduce the number of SALT accountable launchers at the same time. From the perspective of SALT, then, there has been a reduction in the total number of accountable weapons. This is surely viewed as a positive development by SALT supporters. Yet the threat to this country from Soviet strategic ballistic missile warheads has grown 400 percent since we began the SALT exercise in 1969.

Mr. President, I submit, if this is strategic arms limitation, then this country can hardly stand another decade of such limitation. Can anyone truthfully argue that the threat from Soviet strategic forces has not increased astronomically over the past 15 years while the number of SALT launchers has decreased? This is part of the legacy of a decade and a half of SALT. The SALT process counts the wrong things.

Mr. President, these scare tactic figures cannot be substantiated by prudent intelligence estimates nor by any conceivable Soviet strategic rationale. The fact is, that the SALT II levels are a mirror of the planned Soviet strategic force posture in 1977.

Just looking at the history of the negotiations lends credence to this. The United States wanted a limit on strategic nuclear delivery vehicles around 1,800, the Soviets wanted 2,400; we "compromised" at 2,400. The United States wanted to limit total MIRV'd ICBM's—the most threatening strategic system—at 550; the Soviets wanted 850; we "compromised," for the first time a Soviet reduction, at 820. The United States wanted to limit heavy ICBM launchers, the highest priority objective, to 150, the Soviets wanted 308; we "compromised" at 308. At Vladivostok, the United States wanted the Soviet Backfire bomber to count as a strategic bomber and to exclude cruise missiles altogether from the limitations. We split the difference: the Soviet Backfire is not constrained by SALT but U.S. cruise missiles are.

Mr. President, the reason the Soviets have not exceeded many of the key quantitative limitations in the treaty is that they do not have to: the limitations were designed to allow the Soviets to exploit the advantages of their large throw-weight force in order to add thousands of additional warheads to their arsenal.

Yet the Soviets have even broken out of the numerical limitations by possessing at various times over 2,504 total strategic nuclear delivery vehicles. Now many will say that this is not militarily significant—I don't agree with this argument, but many have made it. I assume that they would also say that, if the United States were to deploy a new Trident submarine and not dismantle two Poseidons, thus putting the United States 22 MIRV'd launchers over the limit, then that would also be OK.

That it would not be significant. But of course that is not what we hear. We hear that it would be destabilizing; that it would unravel the SALT framework; that it would ruin arms control. But why, I ask these colleagues, has Soviet cheating not already ruined arms control and why is it incumbent upon the United States to always "go the extra mile" when the Soviets won't even give an inch?

Mr. President, another bugaboo of the SALT II supporters is that the Soviets will "fractionate" their huge SS-18 missile. Well, I have some good news and some bad news on this point. The good news is that there is little prospect that the Soviets will add warheads to their SS-18 force beyond what they already have.

There is no strategic rationale to do so, and in fact Soviet fractionation of the scale suggested would cost them greatly. They would have to design, develop and test new reentry systems; they would have to test new hardware and it would place great demands on their nuclear materials production. At the end of all this, they would actually decrease the military utility of their strategic force. There is no target base in the United States that would justify such an expansion.

The bad news is that it has been widely reported that the existing Soviet SS-18 force already carries more than the 10 warheads as limited by SALT. Some suggest the true number is around 12-14. So here we suspect a 20-40 percent increase in the size of the SS-18 force, a violation under the terms of the SALT II treaty, that we cannot verify with any certainty. That is between 600 and 1,200 additional warheads. The truth is we have no way of knowing exactly

how many warheads are deployed on the SS-18, or any large MIRV'd Soviet missile.

Mr. President, all the critics' arguments add up to one thing: since the United States is not willing to compete seriously with the Soviet Union we therefore had better cut the best deal we can. I cannot accept the premise behind this argument just as I cannot accept a treaty that locks in U.S. strategic inferiority.

I urge all my colleagues to support the President's decision to end unilateral U.S. compliance with the "fatally flawed," expired, and violated SALT treaties.

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. DIXON] is recognized.

TRI-CITY REGIONAL PORT DISTRICT TO DEVELOP SURPLUS FEDERAL PROPERTY

Mr. DIXON. Mr. President, I would like to call the Senate's attention to the pending sale of surplus Federal property at the St. Louis Area Support Center in Granite City, IL.

As we all are aware, President Reagan has encouraged all Government agencies to dispose of surplus property. In keeping with the President's plan, Senator PAUL SIMON, Congressman MEL PRICE and I made a joint effort to assure that this excess property would be put into active economic use.

Last fall, after nearly a year of deliberation with the Army and GSA, 104 acres and one warehouse were formally released for sale to the tri-city regional port district for economic development.

On June 5, 1986, I was notified in a letter from Earl E. Jones, Commissioner of GSA's Federal Property Resources Service, that an agreement has been reached for the sale of the property. The proposal is now before the House Committee on Governmental Operations, and the Senate Committee on Governmental Affairs. The project is only one step away from being put into action.

The Port District, along with Fox Industries, Inc., will use the property for warehousing of materials, and as an expansion site of foreign trade zone No. 31.

This southern Illinois community is economically depressed, with the unemployment rate exceeding both the State and national levels. The public warehousing operation will create 25 jobs initially, and the immediate activity of the building will help develop and market the adjoining 104 acres, generating additional employment.

I am confident that the development of this land will enhance the economy and provide incentives for further expansion.

The port district has already received a $161,500 low interest loan through the "build Illinois" program, the State of Illinois' commitment to helping local areas strengthen their economy.

Mr. President, I am encouraged by the sale and the development of this property. This project is, indeed, an excellent example of public cooperation—at the local, State and Federal levels—working successfully with the private sector.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

SOVIETS MORE WILLING FOR ARMS CONTROL NOW THAN SINCE THE START OF THE NUCLEAR AGE

Mr. PROXMIRE. Mr. President, add one more reason why right now—today—is the ideal time for nuclear arms control negotiations between the United States and the Soviet Union. Marshal Shulman is the director of the Harriman Institute for the Advanced Study of the Soviet Union at Columbia University. If any American citizen is widely acknowledged as our top expert on the Soviet Union, it is Shulman. As the New York Times reported recently, Marshal Shulam has devoted 40 years to the quest for a more rational relationship between the two superpowers. What does Shulman say about the prospects of an arms control agreement with the Soviet Union today? Here is what the New York Times reported from Marshal Shulman June 1:

> The Soviet Union has reached the point where it has very strong incentives to try and stabilize the military competition with the United States. In all the forty years I have studied the Soviet Union, I have not seen a time when they were more seriously interested in getting into negotiations with us.

Shulman then said:

> But it comes at a time when the United States is out of phase with that. We have been preaching to them for a long time on the virtues of arms control. But now we are in a period of nationalism in our national life so nothing is coming of it.

Think of it, Mr. President. As I said recently on the Senate floor, the time could hardly seem better for arms control. It has the overwhelming support of the American people according to every statewide referendum and every professional poll. Can we negotiate from strength? We can, indeed. The United States and our NATO alliance has an impressive and growing economic, technological, and military superiority over the Soviet Union and the Warsaw Pact. So, yes, we can negotiate from strength. And now this country's leading expert on the Soviet Union tells us that the Soviet Union is more favorably inclined toward arms control than they have been since the dawn of the nuclear age. So are we progressing toward an historical arms control agreement? No way. The arms control talks at Geneva have made no progress whatsoever. And what is worse, the administration has killed or virtually killed every single significant arms treaty so painstakingly developed over the past 25 years between the 2 countries.

Mr. President, this Senator does not fault the Reagan administraton so much for not reaching an agreement with the Soviet Union, I fault it for not trying

Think of it. President Reagan is the first President since the dawn of the nuclear age who has proposed no significant arms control agreement with the Soviet Union. Every previous President favored negotiations to end nuclear testing. Every previous President since Lyndon Johnson and including Nixon, Ford, and Carter supported the Antiballistic Missile Treaty which the Reagan Star Wars Program—the administration's top military priority would destroy. Every one of these previous Presidents enthusiastically supported the negotiations that finally achieved SALT II which President Reagan has always opposed and now proposes to nullify.

The President of the United States is the name of the game in arms control. He and he alone appoints the negotiators. He and he alone gives the negotiators their instructions. He and he alone rejects or accepts whatever agreement they achieve. Oh, sure, the Senate has the power to ratify a negotiated treaty. But a President can and often does put negotiated agreements into effect without Senate ratification. The Congress cannot even bring its prime power—the power of the purse—into play on arms control. For example, some have proposed that the Congress withhold funds from nuclear testing to force the President to negotiate a test ban with the Soviet Union. But Congress would even have great trouble using its appropriations power to overrule a President who is unpopular. Could we overrule President Reagan on the country's arms control policies? President Reagan is the most popular President in many years. Any congressional attempt to overrule President Reagan would put the U.S. Government publicly at war with itself over the most critical national security issue confronting the country in this dangerous nuclear age. And Congress would almost certainly lose.

So unless somehow the President changes his life-long consistent opposition to arms control, the free world may miss what Marshal Shulman sees as our best chance in 40 years to negotiate an historic nuclear arms control treaty with the Soviet Union.

Our NATO allies obviously and overwhelmingly favor such negotiations. But without a President willing to lead the negotiations, the cause of arms control appears hopeless until at least January 20, 1989. For the next 2½ years we can only hope and pray that the superpower nuclear arms race does not sweep so far out of control that arms control negotiations will be impossible when a new President takes office.

ONE OF THE WAYS S. 430 BRINGS BACK BRIBERY

Mr. PROXMIRE. Mr. President, this is the second in my series of speeches against S. 430—the "Bring Back Bribery Bill," or BBB. It is my contention that this bill will gut the Foreign Corrupt Practices Act that was enacted in 1977. That law has effectively stopped the bribery of foreign officials by American corporations. Prior to enactment of that 1977 law, there had been a spectacular and dramatic outbreak of scandals. The bribes payed by American corporations were found by the SEC to be widespread. They included bribes paid in Japan, Italy, and The Netherlands that had staggered their governments and shaken our country's foreign relations. The SEC found that 450 American corporations had paid over $300 million in bribes.

What has happened since the enactment of the Foreign Corrupt Practices Act? In the more than 8 years since that law was enacted, there has not been a single foreign bribery scandal involving American corporations. How would S. 430 gut the law? Today I will deal with a single provision of the bill. This bring-back bribery bill provides that the 1977 law will be amended so that it will henceforth be legal for a corporation to make a payment to a corporation official from a slush fund for—and I cite the express language of the bill, S. 430: "any payment, gift, offer or promise of anything of value which constitutes a courtesy, a token of regard or esteem, or in return for hospitality." What is wrong with that provision? Plenty. It does not provide any limit—not $1,000, or $10,000. It does not even use generalized language as a limitation such as any nominal payment.

Under that S. 430 provision, the New York Times opined in an editorial, the bill opens a loophole through which you could fly Lockheed. Would a $100,000 payment to a top official of a foreign country constitute a courtesy? Could it be regarded as a token of esteem? The word "token" might be considered to imply a limit. But doesn't the word "esteem" for the high official and the country he represents suggest that the payment could be very substantial, indeed?

And how about the term "in return for hospitality"? A corporation may send a delegation of 15 or 20 persons to a country. It might stay for a month or so in luxurious surroundings. The cost of hospitality to the host country could very possibly be tens of thousands of dollars. What does that mean? That means that under S. 420, corporation X could bring a delegation for a stay of several weeks in country X with the expenses of that stay picked up by the treasury of country X. Then, "in return for the hospitality" of country X, the corporation makes a personal gift to a top official of country X equal to the cost—say, $50,000—of the hospitality. Of course, the $50,000 could easily be $100,000 or $200,000. Presto, the return of hospitality becomes a bribe. All of this would be legal under BBB, the bring-back-bribery bill, S. 430.

Mr. President, the present law enacted in 1977 is working well. It has stopped bribery by American corporations of foreign officials. It has not—on the basis of an objective and scholarly study—had an adverse effect on our exports. There is no evidence that any corporation official has been unjustly or unfairly prosecuted. No question about it.

So what is wrong with present law? Something very important is wrong with it. It has cost some very powerful people—that is, top corporation executives—some uncomfortable and uneasy moments. Yes, those executives do have to be very careful now to avoid any slush fund payments to bribe foreign officials. That is a serious price, a genuine burden on a corporate official. But consider the alternative. Would our country and the countries where we sell our products be better off if American products were bought on the basis of bribery instead of quality, price, and service?

Everyone agrees that the answer is clearly and emphatically: No. The authors of S. 430 believe that somehow we can both continue to stop corporate bribery and at the same time ease the language of the Foreign Corrupt Practices Act so that top American corporate officials will not have to worry so much about their corporation paying bribes to get foreign sales. S. 430, the bring-back-bribery bill, would ease that worry all right. In doing so, it would surely gut the law. As the New York Times has written, it would open a loophole through which every corporation could fly Lockheed.

Mr. President, in a subsequent speech on the floor I will spell out how S. 430 guts the Foreign Corrupt Practices law in still another respect.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that the economy is in the midst of a beautiful recovery. The one series of economic statistics that really matters to most Americans demonstrates the hollowness of this assertion.

We talk a lot about the economy on this floor, mentioning gross national product, unemployment, inflation, and savings and investment. All are important indicators of the health of our economy. But for the average worker, they are abstractions when compared to one variable—the size of the paycheck.

What has happened to the average worker's paycheck during this recovery? Here the story is not of recovery but of decline and stagnation.

In 1978, the average worker earned $189 a week after adjusting for inflation. By 1982, that average paycheck had dropped to $168 a week—a drop of 11 percent. This decline took place during the deepest recession since the Great Depression and in part can be explained by it.

But look at what has happened to pay since the recovery, which some have described in glowing terms. That recovery has been anemic when it finally filtered down to workers' paychecks. By 1985, after 3 years of recovery, the average worker was earning $172 a week, an increase of a paltry 2 percent over 1982. In 1985, the average worker was earning 9 percent below what he had earned in 1978.

Mr. President, inflation and interest rates are down and we have a chance, but only a chance, to put the economy on a sound footing. Economic history demonstrates that sustained economic growth means bigger paychecks for American workers.

This recovery has not met that historical test. In fact, the average paycheck actually declined by about 1 percent in 1985, after increasing in both 1983 and 1984. These facts demonstrate that those who extoll this recovery are talking about a myth as far as the average American worker is concerned.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1010

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALT COMPLIANCE

Mr. DOLE. Mr. President, there is a great deal of rhetoric floating around

these days about the SALT II Treaty and the President's recent decision and statements on it. In fact, the President has made the right basic decision on SALT—the decision that offers us the best, in fact probably the only, hope for real arms reduction in the months and years ahead.

What the President has done—and, frankly, I would have done this some time ago, had I been in his position—is make clear that henceforth we are going to base our strategic arms decisions solely on the basis of three criteria:

First, what armaments do we need to insure the security of our country and to meet our commitments around the globe.

Second, what strategy gives us the best chance to make progress in Geneva on arms reductions.

And, third, what are the Russians really doing in their own arms development programs—including whether they are complying with existing arms control agreements—and what they are really doing in our arms control talks—are they serious or not.

What the President has set aside is our promise to remain in technical compliance no matter what the Soviets do. What he has said is we are not automatically and forever wedded to a treaty that the Soviets have massively and repeatedly violated; that has allowed them to buildup—not reduce in any area; and that sets limits on the wrong things, anyway, at least in terms of where technology has taken us since the treaty was first negotiated.

Unthinking, unilateral compliance with that treaty not only does not serve our national security needs. It has not constrained the Russians and it has not served the cause of arms reductions.

The President's overall stance is the best one, really the only one, we can take. We want arms reductions; we are prepared to negotiate seriously with the Soviets to achieve it; we are not going to do anything provocative or threatening to Soviet interests—unlike them, we are not going to threaten to break-out in any area; but, in the meantime, we are not going to voluntarily tie our hands while they run around free to do whatever they want, violate whatever they want, and get off scot-free.

Let me make one final point. Some are claiming that the SALT Treaty, whatever its flaws, has somehow restrained the Soviets—let me remind my colleagues that the treaty has never been ratified and had it been ratified, it would have expired last year, but there is feeling in this Chamber, that somehow the Soviets are in compliance and we are threatening to be out of compliance—that without that restraint the Soviets are suddenly going to start building many new nuclear weapons systems and vehicles and that we are going to fall into a new arms race.

I am convinced of one thing, if nothing else. The Soviets do not make their decisions on national security matters on the basis of whether or not they have signed any agreements. They will not desist from doing something in their interest just because, a decade ago, a Soviet leader put his signature on some agreement, again, which has never been ratified.

Let us not foreget: The Soviet Union is the country that signed the U.N. charter and has spent the 40 years since conducting aggression and fomenting revolution around the world. It is the country that solemnly pledged free access in and out of Berlin and then built the Berlin Wall. It is the country that said it would not put offensive missiles in Cuba and then tried to do so secretly.

It is the nation that signed treaties of friendship with Hungary and then invaded that country; with Czechoslovakia and then invaded that country; with Afghanistan and then invaded that country. It is the nation that signed the Helsinki accords and has proceeded since to crush human rights at home and deny hundreds of thousands their right to emigrate. It is the nation—the very same nation—that signed an ABM Treaty and grossly violated it; that signed the SALT II Treaty—the one that some seem to revere so much—and this is the treaty they continue to violate in every way nearly every day.

Mr. President, the Soviets make their national security policies based on their national interest, nothing else. It is the one lesson, perhaps, that we ought to take from them.

It seems to me that they are concerned about their national interests and have a right to be. We should be as concerned about our national interests and we should also take a look at the Soviet record.

Mr. President, do I have any leader time remaining?

The PRESIDING OFFICER. The majority leader has 2 minutes of time remaining.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have a special order for a period of 5 minutes. In the absence of any of my colleagues in the Senate Chamber, perhaps I might extend that just a bit as the need may arise.

REPORT ON FARM HEARING IN CLARKS SUMMIT, PA

Mr. SPECTER. Mr. President, first I would like to report upon an open house town meeting forum which I held on May 27, 1986, at a farm owned by Mr. Keith Eckel, the President of the Pennsylvania Farmers Association, in Clarks Summit, Lackawanna County, PA.

This was one of a continuing series of meetings which I have held around Pennsylvania on farms. As part of the efforts that I have made to keep in touch with the people of my State during the course of the past 6 years, I have been in each of Pennsylvania's 67 counties on some 40 occasions and held approximately 260 open-house town meetings. These sessions are very important in acquainting this Senator with what is going on in Pennsylvania.

Pennsylvania's farming community is a major portion, the No. 1 industry of the State. Few people recognize the fact that there are more people living in rural Pennsylvania than live in the rural parts of any other State in the United States, there being some 2½ million people living in rural Pennsylvania.

Customarily, my State is considered to be a State of big cities, steel mills, coal mines, textile and apparel factories. But in addition, we have a very, very major industry in agriculture.

As the Presiding Officer knows from work which we do together on the Agriculture Subcommittee of Appropriations, the farm country of Pennsylvania is very, very important indeed.

Mr. President, during the course of the meeting which I held with the farmers in Lackawanna County on May 27, some 60 were in attendance and there very significant issues raised at that time. Joined by Pennsylvania State Representative Carmel Siriani, I heard testimony from several prominent members of the agriculture community at the hearing, including Mr. Earl Forwood, president of Eastern Milk Producers Cooperative Association, Mr. Harry Hopkins, president of the Wyoming/Lackawanna County Farmers Association, Ms. Audrey Naylor, who represented Penn State Agriculture Services, and Mr. Rich Pallman, a board member of the Pennsylvania Farmers Association.

Four main issues dominated our discussions: the health of the dairy industry, fiscal restraints on effective agriculture marketing and extension programs and sound trade policy. Mr. Forwood brought me up to date on issues facing the dairy industry, which is the largest component of Pennsylvania's agriculture industry. He expressed his hope, as I did, that as the complicated provisions of the 1985 farm bill are implemented, they will benefit dairy farmers, agribusinesses and consumers alike.

Mr. Hopkins' testimony centered on marketing, product promotion and the farm credit situation. He pointed out that the maintenance of adequate funding for the Foreign Agriculture Service, the Agriculture Research Service and other branches of the Department of Agriculture is essential to enhancing the success of our agriculture industry. In suggesting that farm credit programs be individualized, Mr. Hopkins has hit upon something which I will seek to address in the Senate Appropriations subcommittee on Agriculture in the future.

Ms. Naylor provided an ample case for the maintenance of a strong Cooperative State Extension Service. This valuable program, which includes 4-H clubs, home economics programs and, most importantly assistance for farmers themselves must be continued. I was pleased to assure Ms. Naylor of my strong support for extension programs.

Mr. Pallman, pointing to our country's enormous trade deficit, stressed the need to enact legislation which would provide effective recourse to remedies against unfair foreign trade practices. We discussed my Unfair Foreign Competition Act, S. 1655, in which farmers and others would be provided the opportunity to stem the flow of illegal imports by seeking injunctive relief from a Federal district court. Mr. Pallman noted that legislation like this would not carry with it any undesirable retaliation against American agriculture exports.

I have made a firm commitment to monitor the progress of the farm bill in the coming months and years. I have found that the most effective method of keeping abreast of developments is by meeting with active participants in my State's agriculture industry, Pennsylvania's largest, on a frequent basis. I strongly recommend this kind of interaction to my colleagues.

I ask unanimous consent that the full text of testimony presented by those who were present be printed in the CONGRESSIONAL RECORD so that our colleagues and others may have the benefit of information presented at that time.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY PRESENTED JOINTLY BY MR. KEITH ECKEL, MR. HARRY HOPKINS, MR. RICHARD PALLMAN

The Pennsylvania Farmers' Association (PFA) is a general farm organization which represents producers of virtually all commodities produced on a commercial basis in Pennsylvania. PFA membership totals 23,300 member family farms which makes the organization the largest general farm group in the state. PFA is organized in 61 Pennsylvania counties and is affiliated nationally with the American Farm Bureau Federation. This document provides an overview of issues discussed by Senator Arlen Specter and Keith Eckel, PFA President, when the Senator visited Mr. Eckel's farm in Clarks Summit, Pennsylvania on May 27, 1986.

TRADE LEGISLATION

The 1985 U.S. trade deficit of $148 billion has increased Congressional awareness of the decline in U.S. competitiveness in world markets and has generated a great deal of momentum toward some form of trade legislation to correct the perceived problems. Several hundred bills have been introduced that deal in some fashion with trade.

Trade problems frequently appear to have very quick and simple solutions, but such "solutions" may have hidden and detrimental consequences in other trade areas. It is imperative that U.S. agriculture carefully evaluate the impact of new trade laws on our specific trade interests. PFA supports changes to U.S. trade statutes that would allow more effective recourse to remedies against unfair foreign trade practices. PFA does not support protectionist legislation such as quotas or import surcharges in cases where trade practices are fair because they would result in counteractions against our farm exports.

Our positions on legislative proposals affecting Section 201 Import Relief are as follows:

1. One proposal would either remove the President's override authority altogether or place the final decision in the Office of the U.S. Trade Representative (USTR) rather than the White House. PFA cannot support such changes. Eliminating the President's ability to decide whether import restrictions on fair trade is in the overall national interest could hurt agricultural trade much more than help it.

2. Fast-track emergency procedures for perishable agricultural products have been proposed. PFA strongly supports fast-track provisions consistent with the General Agreement on Tariffs and Trade (GATT).

3. Some proposals would allow trade relief if imports are determined to be simply "the cause" of injury to a domestic industry rather than a "substantial cause" of injury. PFA cannot support this change because it would open the gate to a flood of requests for import protection, mainly from industrial sectors, which would result in retaliation against U.S. agriculture.

Our positions on legislative proposals affecting Section 301 Relief from Foreign Unfair Trade Practices are as follows:

1. The most significant proposal for improving Section 301 would establish mandatory deadlines for investigations and retaliatory actions. PFA supports this concept as the most effective means of making the 301 process work to the advantage of U.S. producers.

2. A new proposal would impose an import surcharge on trade from countries with bilateral trade surpluses. This would be strongly opposed by our organization.

Our position on legislative proposals affecting Countervailing Duties involves the problem of "producer standing" in trade relief cases where producers of raw farm products are ineligible to participate in some trade complaints on processed agricultural products. PFA supports changes that would provide producer standing in countervailing duty cases.

Our positions on other trade issues are as follows:

1. PFA will support legislation in a trade bill requiring the labeling of imported products according to country of origin. For example, consumers buying processed mushrooms cannot tell whether the product has been grown in the U.S. or some other country which might have less rigid production standards.

2. PFA supports legislation that would close the present loophole resulting from the Caribbean Basin Economic Recovery Act that allows the duty-free importation of non-Caribbean ethanol products by essentially transshipping them through Caribbean countries with minimal processing.

AG MARKETING PROPOSALS

Marketing and product promotion are key to a healthy and productive agricultural economy and to a higher standard of living for farm and rural families. Farmers in Pennsylvania have recognized the importance of promotion and in 1985 contributed $2,097,000 to state level producer funded dairy, red meat, peach, and potato programs. At the national level, promotion programs are in place for beef, pork and eggs, and milk. Farmers are also working to improve their market share of the food dollar by organizing cooperatives to process, package, develop and distribute the products they produce. For example, a group of Pennsylvania beef and pork producers recently joined together to open a plant that will make a new reconstituted pork chop, designed for the Congress and USDA can be a great help, or a great hindrance, to farmers as they work toward more efficient and effective marketing of agricultural products. We believe that Congress can best help farmers develop new products and markets by promoting legislation and prioritizing spending.

1. By retaining adequate funding for the Foreign Agricultural Services cooperator program. This program provides partial funding for export promotion efforts by commodity groups.

2. By changing the Bonus Incentive Commodity Export Program (BICEP) to allow all countries to be eligible for bonus commodities where the U.S. faces unfair or subsidized competition from foreign supplies. The export title of the 1985 Farm Bill contained $2 billion for a 3 year export bonus program and $325 million per year for targeted export subsidy programs.

3. By maintaining funding for basic agricultural research in product and market development and for the Extension Service. The Extension Service is the primary structure through which new scientific discoveries are passed along to the producer.

4. By opposing farm programs that would limit or set quotas on agricultural production. When American farmers decrease production our foreign competitors are waiting to fill the void and take over our markets. In 1985 when U.S. farmers idled 80 million acres as part of the PIK program, foreign producers responded by planting an additional 50 million acres.

5. By strengthening and enforcing federal grain standards to reflect the quality of grain sold in world trade so that we can expand grain exports. Foreign buyers have expressed concern that U.S. grain quality is frequently less than the minimum standards at the time grain is received at foreign ports of delivery.

6. By supporting legislation which enables farmers to organize commodity promotion programs and marketing orders designed to promote orderly and expanded marketing of farm products. For example, the 1985 Farm Bill provided for the creation of a national pork and a national beef marketing and promotion order.

7. We urge the enactment of a comprehensive federal marketing and bargaining act. This legislation should be available to producers in all states if they desire to organize marketing associations and operate within the provisions of the act.

AG CREDIT SITUATION

For 1986, the agricultural finance policy debate has been focused on the immediate problems of the one-third of commercial agricultural operators that hold two-thirds of the debt held by all farm operators. About half of this group, 100,000 to 125,000 farm operators, are at the point where substantial debt restructuring will be needed over the next two years to avoid liquidation, either voluntary or forced.

A substantial reduction in debt load or a reduction in the debt that has to be serviced out of current income is absolutely essential. Only this will bring long-lasting financial relief to stressed farm operators. But, for some portion of the farm operators, no reasonable amount of debt relief will be sufficient to deal with their debts.

The American Farm Bureau Federation and PFA have proposed a Two-Tier Debt Restructuring Program to deal with long-term financial problems. We are pleased that banking regulators have issued new regulations to make two-tier debt restructuring, as well as other forms of debt restructuring, possible for private banks. We were also pleased to hear the recent Farm Credit System announcement that they too will implement a least cost debt restructuring program for their borrowers.

In dealing with current and future farm credit legislation, we offer the following suggestions:

1. Credit programs for farmers should not forgive debt, but rather provide ways for deserving farmers to repay money owed. Financial institutions do not have enough capital to forgive substantial amounts of debt.

2. No farm credit program should be designed to help all troubled farmers, but rather should be administered on a case-by-case basis. Some farming operators are in a position where the only available option is foreclosure. In 1984, 57 percent of Pennsylvania farms were debt-free. Moratorium on foreclosures creates unfair competition for these solvent farmers.

3. Farmers Home Administration should be returned to its original purpose of helping farmers who cannot qualify for other financing. The program should not be used to encourage over production by assuming a disproportionate share of total farm debt.

TESTIMONY PRESENTED BY MS. AUDREY NAYLOR

On behalf of the Lackawanna County Cooperative Extension Service and Penn State University, I welcome you, Senator Specter, and this opportunity to discuss the issues and problems important to us.

For many months we have been worried about the severe cuts for Cooperative Extension proposed in the Federal budget. These were cuts that would nearly eliminate Extension programs as we know them today.

We believe that an important part of the service that Cooperative Extension provides, goes to our youth through the 4-H Clubs and their volunteer leaders to adults through our Family Living programs, to our economic progress through our Community Development programs.

We believe that all of these programs are important and should remain as part of Cooperative Extension education as well as our programs in commercial agriculture.

Here in Pennsylvania, about 52 percent of our Extension budget comes from federal funds matched by state and county support. However, I don't believe that cuts in federal funds will be made up through increases in state and county appropriations so it's important that we keep our present level of federal funding.

Originally, Extension had requested a 5 percent increase in appropriations but with the national effort in cutting budget deficits we're still hoping for the same level of funding that we had last year. Realizing that even this amount may be reduced when the Gramm-Rudman-Hollings formula is applied across the board to all federal agencies.

Budgets under consideration now in both the House and the Senate include appropriations for Cooperative Extension at the same level as last year and we hope that you will support that level funding for us.

I believe that we can count on your support on this because I know you have already shown your interest in the College of Agriculture at Penn State by sponsoring a bill to have the Department of Agriculture make a study of the physical facilities of the College to determine what will be needed in the future.

While we recognize and appreciate your concern for the facilities at Penn State we will still need a strong Extension Service to deliver the research results from University Park to the farmers, the homemakers, the 4-H Clubs, the public officials, in fact all of the citizens of Pennsylvania as we do now.

I would like to thank Keith Eckel and his family, and the Pennsylvania Farmers Association for this opportunity to speak to you, Senator Specter, and we thank you for coming to Lackawanna County and showing your concern for our problems.

REMARKS FOR PRESENTATION AT MEETING WITH SENATOR ARLEN SPECTER BY EARL R. FORWOOD, PRESIDENT, EASTERN MILK PRODUCERS COOPERATIVE ASSOCIATION, INC.

I am honored to represent Eastern Milk Producers at this session today. Eastern is the largest dairy farmer cooperative in the Northeast and with over 2,200 members residing in Pennsylvania it is one of the largest in the Commonwealth. We welcome this opportunity to share some thoughts with you, Senator Specter, on our concerns about the future of our industry. As you know, dairy farming is by far the leading sector of Agriculture in this State. Its economic vitality has a direct and important impact on the Pennsylvania economy as a whole.

The first thing I want to do, Senator, is to sincerely thank you for your continuous support of legislation in the best interest of Pennsylvania dairy farmers as well as of all dairymen in the Nation.

The long struggle to find an economically workable and politically acceptable farm bill ended with the enactment of the Food Security Act of 1985. We are confident that it will help correct the chronic over-supply problem that has burdened the dairy industry in recent years, in the least painful way to milk producers. It certainly is far superior to the severe price reductions which would be necessary to drive out excess resources relying solely on price. Your staff was most receptive to our representatives when they sought your support.

Your effort to defeat the so-called Hawkins Amendment is particularly appreciated. That action, alone, will save Pennsylvania dairy farmers some 45 to 50 million dollars in 1986. The higher Class I differentials for Federal orders (and indirectly for state orders) in Pennsylvania will probably put an additional 10 to 12 million dollars in dairy farmers' pockets this year that they would not have had without the adjustments mandated by the 1985 Act.

Your support for the amended treatment of the Gramm/Rudman/Hollings budget reduction for the price support program was also greatly appreciated. When the Administration attempted to meet the budget cut by reducing supports, and thus milk prices, by 55 cents a hundredweight, you responded to our pleas to support the 12 cent assessment provided in the Food Security Improvement Act of 1986. That will save Pennsylvania dairy farmers over 40 million dollars this year alone.

Milk producers know all too well that dairying is going to be rough going for the next few years. For some, it will be a painful adjustment. For others, it will be financially disastrous as they are driven out of dairy farming into another line of work or into early retirement. All of us must understand, however, that the situation would have been much bleaker had it not been for your continual support. Your vision and sensitivity to our needs is most appreciated.

Although a major hurdle has past with the enactment of the 1985 and 1986 Acts, others remain to be crossed.

The continuation of an effective Federal milk marketing order program is vital to Pennsylvania dairy farmers. Over 80 percent of the milk produced in the Commonwealth is priced under the provisions of Federal orders. The remainder is priced by the Pennsylvania Milk Marketing Board using formulas tied directly to prices established by the Federal orders. As you know, the Federal/State milk order system has been subjected to a great deal of criticism in recent years, mostly by self-serving interest seeking cheap milk and dairy products.

Congressman Bob Kastenmeier and Dave Obey, of Wisconsin, have introduced a bill in the House calling for a single, nationwide milk marketing order. A similar bill has been introduced in the Senate by Bob Kasten and Bill Proxmire. Although these bills are not expected to be acted on this year, they could set the stage for further attacks on the marketing order program in the next Congress. The sole purpose of a single order would be to drastically reduce the prices payable to dairy farmers in Pennsylvania and other Northeastern states. We will keep you apprised of any developments in this direction and will be seeking your help in defeating such legislation should it reach the Senate floor.

Another self-serving measure is the attempt by Land O'Lakes and several midwest state governments and dairy organizations to overturn the recently enacted increases in our Class I prices. They currently are considering court action to overturn that provision of the 1985 Farm Bill. If that course does not prove feasible, they intend to propose amendments to accomplish such reductions in the South and East as soon as possible. Again, their purpose is to reduce Class I prices in these regions to force our dairy farmers out of business to the benefit of Midwest producers. Earlier legislative initiatives have not succeeded, but will likely be pressed as the session winds down. Again, we will keep you informed if this threat arises.

I am sure you know that Senators Bob Kasten and Bill Proxmire both have intro-

duced bills that would discourage development of a huge dairy farm complex in Georgia by the Irish Company, Maastock International. One bill would deny the tax exemption for interest on industrial development bonds used to finance the acquisition of farm property by foreign persons. The second bill would provide that certain persons or groups who are not U.S. citizens would be ineligible to receive financial assistance under price support and related agricultural programs. We urge your support of these initiatives when they reach the Senate floor.

Eastern members, like most other dairy farmers, are outraged that foreign interests can take advantage of our tax law, local development bonds and agricultural programs to finance the development of substantial milk production capacity at a time when our domestic farmers are being run out of business to correct the nation's over-supply in the dairy industry.

The Senate Appropriations Committee has approved 9 billion dollars to indemnify dairy farmers affected by the recent heptachlor contamination of herds in Arkansas, Missouri and Oklahoma. Although a similar tragedy has not occurred in Pennsylvania, it has become abundantly clear that even the best safeguards againt such contamination, which we believe to be in place, sometimes fail through no fault of the farmers or the industry at large. For this reason, we urge your support of this important matter when it reaches the Senate floor.

We are pleased that the House and Ways and Means Committee has approved an amendment to its omnibus trade bill reclassifying casein imports in the U.S. tariff code to the category of miscellaneous dairy products. It moves all human and animal feed uses of casein out of the industrial category and into the food category. The trade issue now is before the Senator HEINZ' Finance Committee and probably will be taken up later this summer. Perhaps you could prevail upon John to support a similar provision in the Senate bill. It is important to dairy farmers that such action be taken. Hopefully, we will soon see favorable action on our efforts to provide for a 50 percent quota limit on imported casein as well.

In conclusion, Senator SPECTER, I would like to again express the appreciation of Pennsylvania dairy farmers, as well as dairy farmers nationwide, for your unflagging support of beneficial dairy legislation. I am sure that by working together in the cooperative spirit we can continue to improve the future of dairy farmers the United States.

INTRODUCTION OF FARM LEGISLATION

Mr. SPECTER. Mr. President, I am introducing three pieces of legislation which will deal with problems in the farm sector. This legislative package is not designed to be responsive to all of the issues which were raised at the May 27 meeting, but there are three bills which I have been considering which I think will significantly improve the life of the farm community in America.

The first bill deals with the preservation of American farmland. It proposes Federal assistance, in conjunction with State financing, to save farmland.

The second bill relates to the sale of farmland development rights to certain classified eligible organizations which would then be in a position to claim exemptions from capital gains treatment.

This is a matter which is going to require a study. I am not suggesting it be appended to the current tax legislation which is pending before this body, but I seek to have the appropriate referral and consideration of the piece of legislation.

The third bill extends financial protection to dairy farmers and poultry and egg producers similar to those already provided to the livestock and fresh fruit and vegetable industries.

The preservation of America's farmland from the developers bulldozers is absolutely critical to ensure that prime farmland is available to meet America's future food needs. Each year approximately 3 million acres of agricultural land are taken out of production forever as suburbia inexhorably encroaches deeper and deeper into surrounding farmland. In many places in Pennsylvania where green fields once stretched endlessly, today I see vast tracts of housing and hamburger stands.

This legislation is particularly relevant to my State of Pennsylvania which is subject to the dual pressures of rural development and the need to ensure an indigenous supply of food and fiber for a growing population. The nature of the State's population growth exemplifies the national trend of rural growth, with nonmetropolitan areas growing nearly 8 percent during the last decade. As a consequence, the rate at which productive Pennsylvania farmlands have been converted to nonagricultural uses has by far led the northeastern States, with nearly 113 million acres converted between 1967 and 1977. This trend has continued on into the 1980's and is most acute in those agriculturally significant counties close to metropolitan areas.

While I am certainly not advocating a no growth policy, I am suggesting that the continued conversion of farmland to nonagricultural uses will exact a high price in the future. Fortunately, farmland destruction has not gone unnoticed or unchallenged. State and local governments in some places are trying to stem farmland conversion by purchasing future development rights from the owners. This bill would provide additional incentives to State, local, and nonprofit organizations to extend their farmland preservation efforts by making available $50 million in Federal funds on a matching formula of 25 percent Federal and 75 percent non-Federal funding. These grants will be used to acquire development easements in farmland to prevent the conversion of such farmland to nonagricultural uses. The growth of programs aimed at protecting farmland has increased substantially in Pennsylvania and all over the country. It is time for the Federal Government to assist by making funds available to purchase these future development rights.

Another bill I am introducing today will enable farmers who sell these farmland development rights to an eligible organization to claim an exemption from capital gains tax provided that this income was used to purchase additional farmland or to make capital improvements to the existing farm.

This farmland preservation program will make a Federal commitment to preserve something which is rapidly becoming endangered; prime agricultural farmland. A modest investment now will assure an adequate, reasonably priced supply of food for future generations of Americans.

Mr. President, another bill also extends financial protection to dairy farmers, poultry and egg growers and sellers similar to that already provided to the livestock and fresh fruit and vegetable industries. Currently, if buyers of dairy, poultry, and egg products go bankrupt or default on payments to producers, farmers are left with huge losses. Pennsylvania dairy farmers alone lost over $7.5 million since 1982 due to buyer bankruptcies and insolvencies. This bill will ensure that sale proceeds are deposited into a statutory trust by buyers and promptly paid to farmers. This placement of farmers in a priority payment position will sharply reduce the tremendous risk factor shouldered by our farmers and give the poultry and dairy farmers an even break in the event of buyer bankruptcy.

Poultry production is a very important industry to my people in the Commonwealth of Pennsylvania. We are the fifth largest poultry producing State, producing 22 million chickens each year for a total value of $37 million.

Mr. President, I ask unanimous consent that the texts of these bills be printed in the RECORD at this point.

There being no objection, the text of the bills were ordered to be printed in the RECORD, as follows:

S. 2548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL ASSISTANCE.

Section 1543 of the Farmland Protection Policy Act (7 U.S.C. 4204) is amended by striking out "is encouraged to" and inserting in lieu thereof "shall".

SEC. 2. FARMLAND EASEMENTS.

The Farmland Protection Policy Act is amended by inserting after section 1545 (7 U.S.C. 4206) the following new section:

"FARMLAND EASEMENTS

"SEC. 1545A. (a) The Secretary shall make grants to eligible States, units of local government, and nonprofit organizations to assist such States, units, and organizations

to acquire and retain development easements in farmland to prevent the conversion of such farmland to nonagricultural uses.

"(b) To be eligible to receive a grant under this section, the Secretary must certify that a State or unit of local government has established a program or policy to limit the conversion of farmland to nonagricultural uses.

"(c) Grants under this section shall be based on a matching formula of 25 percent Federal and 75 non-Federal funding.

"(d) There are authorized to be appropriated to carry out this section $50,000,000 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.".

S. 2549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROLLOVER OF GAIN PERMITTED.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. ROLLOVER OF GAIN FOR SALE OF FARMLAND DEVELOPMENT RIGHTS.

"(a) NONRECOGNITION OF GAIN.—If a taxpayer sells farmland development rights to a State or a political subdivision thereof under a qualified farmland preservation program, and within the period beginning 18 months before the date of such sale and ending 18 months after such date, qualified farming property is purchased by the taxpayer, then gain from the development rights sale shall be recognized only to the extent that the amount realized by the taxpayer on such sale exceeds the taxpayer's cost of purchasing such qualified farming property.

"(b) DEFINITIONS.—For purposes of this section—

"(1) FARMLAND DEVELOPMENT RIGHTS.—The term 'farmland development rights' means the right of the owner of real property to use that property for purposes other than farming purposes.

"(2) QUALIFIED FARMLAND PRESERVATION PROGRAM.—The term 'qualified farmland preservation program' means a program which—

"(A) is established under the law of a State or a political subdivision thereof for the purpose of assuring that property currently devoted to farming purposes will continue to be devoted to such purposes, and

"(B) provides for the purchase of farmland development rights by the State or a political subdivision thereof in order to carry out that purpose.

"(3) FARMING PURPOSES.—The term 'farming purposes' has the meaning given to such term by section 2032A(e)(5).

"(4) QUALIFIED FARMING PROPERTY.—The term 'qualified farming property' means—

"(A) any real property,

"(B) any improvement on real property, or

"(C) any item chargeable to capital account,

which is used by the taxpayer for farming purposes.

"(c) RECAPTURE.—

"(1) IN GENERAL.—If a taxpayer who has claimed the benefit of subsection (a) in connection with the sale of farmland development rights—

"(A) devotes the property with respect to which the farmland development rights were sold to a use other than farming,

"(B) sells or exchanges such property for a use other than farming, or

"(C) uses the qualified farming property purchased during the period described in subsection (a) for purposes other than farming purposes within the 5-year period beginning on the date of sale of such farmland development rights,

then there shall be included in the taxable income of the taxpayer for the taxable year an amount equal to the amount not recognized under subsection (a).

"(2) SALE OR EXCHANGE FOR USE OTHER THAN FARMING.—For purposes of paragraph (1)(B), a taxpayer shall be treated as having sold or exchanged property for a use other than farming if the taxpayer knew that the property was going to be devoted by the person acquiring such property, directly or through another party or transaction, to purposes other than farming purposes.".

"(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new items:

"Sec. 1043. Rollover of gain from sale of farmland development rights.".

SEC. 2. ONE-TIME EXCLUSION OF GAIN FROM SALE OF FARMLAND DEVELOPMENT RIGHTS BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

"(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 134 as 135 and by inserting after section 133 the following new section:

"SEC. 134. ONE-TIME EXCLUSION OF GAIN FROM SALE OF FARMLAND DEVELOPMENT RIGHTS BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale of farmland development rights (as defined in section 1043(b)(1)) to a State or a political subdivision thereof under a qualified farmland preservation program (as defined in section 1043(b)(2)) if—

"(1) the taxpayer has attained the age of 55 before the date of such sale, and

"(2) during the 5-year period ending on the date of the sale, the property with respect to which the farmland development rights were sold has been owned and used by the taxpayer for farming purposes (as defined in section 2032A(e)(5)) for periods aggregating 3 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of the gain excluded from gross income under subsection (a) shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(2) APPLICATION TO ONLY 1 SALE.—Subsection (a) shall not apply to any sale by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale is in effect.

"(c) ELECTION.—An election under subsection (a) may be made or revoked at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by this chapter for the taxable year in which the sale occurred, and shall be made or revoked in such manner as the Secretary shall by regulations prescribe. In the case of a taxpayer who is married, an election under subsection (a) or a revocation thereof may be made only if the spouse joins in such election or revocation.

"(d) SPECIAL RULES.—

"(1) PROPERTY HELD JOINTLY; PROPERTY OF DECEASED SPOUSE.—For purposes of this section, the rules set forth in paragraphs (1), (2), (4), (6), and (8) of section 121(d) shall apply to sales to which this section applies.

"(2) PROPERTY USED IN PART FOR FARMING.—In the case of property only a portion of which, during the 5-year period ending on the date of the sale, has been owned and used by the taxpayer for farming purposes for periods aggregating 3 years or more, this section shall apply with respect to so much of the gain from the sale of such property as is determined, under regulations prescribed by the Secretary to be attributable to the portion of the property so owned and used by the taxpayer.".

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 134. One-time exclusion of gain from sale of farmland development rights by individual who has attained age 55.

"Sec. 135. Cross references to other Acts.".

SEC. 3. CHARITABLE CONTRIBUTION DEDUCTION ALLOWED FOR GAIN FOREGONE BY REASON OF SALE OF FARMLAND DEVELOPMENT RIGHTS.

Section 170 of the Internal Revenue Code of 1954 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) SALE OF FARMLAND DEVELOPMENT RIGHTS.—In the case of a taxpayer who sells farmland development rights (as defined in section 1043(b)(1)) to a State or a political subdivision thereof under a qualified farmland preservation program (as defined in section 1043(b)(2)), the taxpayer shall be treated, for purposes of this section, as having made a charitable contribution to the State or a political subdivision thereof in an amount equal to the amount by which—

"(1) the fair market value of the property with respect to which the farmland development rights were sold (determined, as of the day before the date on which such rights were sold, on the basis of the highest and best permissible use of such property) minus the value of such property as farmland (determined as of such date), exceeds

"(2) the gain from the sale of the farmland development rights (determined without regard to section 1041).".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to sales occurring after December 31, 1986.

S. 2550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended by striking out "and" at the end of paragraph (5), by redesignating paragraph (6) as paragraph (11), and by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'poultry' means chickens, turkeys, ducks, geese, and other domestic fowl;

"(7) the term 'poultry product' means any product or by-product of the business of slaughtering poultry and processing poultry after slaughter;

"(8) the term 'poultry grower' means any person engaged in the business of raising and caring for live poultry for slaughter by another, whether the poultry is owned by

such person or by another, but not an employee of the owner of such poultry;

"(9) the term 'poultry growing arrangement' means any growout contract, buy and sell agreement, marketing agreement, or other arrangement under which a poultry grower raises and cares for live poultry for delivery, in accord with another's instructions, for slaughter;

"(10) the term 'live poultry dealer' means any person, other than a packer or a poultry grower, engaged in the business of obtaining live poultry by purchase or poultry growing arrangement and selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce; and".

SEC. 2. Section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191), is amended—

(1) by inserting in subsection (a) "or obtaining, by purchase or poultry growing arrangement, live poultry for slaughter, if poultry is obtained by such person in commerce, or poultry products from poultry obtained by such person are sold or shipped in commerce," after "slaughter,";

(2) by inserting in subsection (b) "or poultry products" after "meat food products"; and

(3) by inserting in subsection (c) "or poultry products" after "manufactured form".

SEC. 3. Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended in subsection (c) thereof by striking out "any such packers" and inserting in lieu thereof "any such persons".

SEC. 4. Sections 202, 203, 204, 205, 401, and 403 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 192, 193, 194, 195, 221, and 223), are amended by inserting "or live poultry dealer" after "packer" wherever it appears therein.

SEC. 5. The Packers and Stockyards Act, 1921, is amended by inserting after section 206 the following new section:

SEC. 207. (a) It is hereby found that a burden on and obstruction to commerce in poultry is caused by financing arrangements under which packers, live poultry dealers, or both, encumber, give lenders security interest in, or place liens on, poultry obtained by such persons by purchase in cash sales or by poultry growing arrangements, or on inventories of or receivables or proceeds from such poultry or poultry products therefrom, when payment is not made for the poultry and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in poultry and protect the public interest.

"(b) All poultry obtained by a live poultry dealer or packer, by purchase in cash sales or by poultry growing arrangement, and all inventories of, or receivables or proceeds from such poultry or poultry products derived therefrom, shall be held by such live poultry dealer or packer in trust for the benefit of all unpaid cash sellers or poultry growers of such poultry, until full payment has been received by such unpaid sellers or growers, unless such live poultry dealer does not have average annual value of live poultry obtained by purchase or by poultry growing arrangement, in excess of $100,000.

"(c) Payment shall not be considered to have been made if the seller or poultry grower receives a payment instrument which is dishonored.

"(d) The unpaid seller or poultry grower shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 410, or within fifteen business days after the seller or poultry grower has received notice that the payment instrument promptly presented for payment has been dishonored, the seller or poultry grower has not preserved his trust under this section. The trust shall be preserved by giving written notice to the packer or live poultry dealer and by filing such notice with the Secretary.

"(e) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.".

SEC. 6. Section 308 of the Packers and Stockyards Act, 1921 (7 U.S.C. 209), is amended by inserting "or poultry, or in connection with any poultry growing arrangement," after "livestock".

SEC. 7. Section 408 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228a), is amended by inserting "or poultry or poultry products, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement," after "unmanufactured form,".

SEC. 8. The Packers and Stockyards Act, 1921, is amended by redesignating sections 410 and 411 as sections 411 and 412, respectively, and by inserting after section 409 the following new section:

"SEC. 410. (a) Each live poultry dealer or packer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer or packer obtaining live poultry by poultry growing arrangement shall, before the close of the seventh business day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer or packer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

"(b) Notwithstanding the provisions of subsection (a) of this section, and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of poultry other than under a poultry growing arrangement may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of, and on the accounts or other documents issued by, any live poultry dealer or packer which is a party to any such transaction, relating to the transaction.

"(c) Any delay or attempt to delay, by a live poultry dealer or packer which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for poultry obtained by poultry growing arrangement or purchased, shall be considered an unfair practice in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term unfair practice as used in this Act.".

SEC. 9. The first section of the Department of Agriculture Appropriation Act, 1944 (7 U.S.C. 204), is amended by inserting ", poultry, or eggs" after "livestock" both places it appears within the last sentence of the paragraph beginning "Packers and Stockyards Act:" under the centerheading entitled "Marketing Service".

SEC. 10. Title V of the Packers and Stockyards Act, 1921 (7 U.S.C. 218, 218a, 218b, 218c, and 218d), is amended to read as follows:

"TITLE V—EGGS

SEC. 501. When used in this Act—

"(1) The term 'eggs' means eggs produced by poultry, whether for human consumption or other purposes;

"(2) The term 'egg producer or supplier' means any person engaged in the business of caring for live poultry (whether or not owned by such person) for production of eggs for delivery to another by sale or egg production arrangement, or engaged in the business of non-retail sale of eggs, but not an employee of such person;

"(3) The term 'egg production arrangement' means any arrangement, whether or not reflected in a written memorandum of agreement, in which an egg producer or supplier cares for live poultry for production of eggs for delivery to another otherwise than by sale; and

"(4) The term 'egg purchaser' means any person engaged in the business of obtaining eggs, from any others not employees of such person regardless of who owns the poultry producing such eggs, by purchase or egg production arrangement, for sale of eggs or products derived from eggs, for manufacture of products derived from eggs, or for hatching, if eggs are obtained by such person in commerce, or if eggs obtained by such person or products derived from such eggs are sold or shipped in commerce.

"SEC. 502. Sections 202, 203, 204, 205, 401, and 403 of this Act (7 U.S.C. 192, 193, 194, 195, 221, and 223) shall be applicable, with respect to eggs and products derived from eggs, to egg purchasers, officers, directors, employees and agents thereof, and transactions of, between, or among, such persons.

SEC. 503. (a) It is hereby found that a burden on and obstruction to commerce in eggs is caused by financing arrangements under which eggs purchasers encumber, give lenders security interest in, or place liens on, eggs obtained by such persons by purchase in cash sales or by egg production arrangement, or on inventories of or receivables or proceeds from such eggs or products therefrom, when payment is not made for the eggs and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in eggs and protect the public interest.

"(b) All eggs obtained by an egg purchaser, by purchase in a cash sale or by egg production arrangement, and all inventories of, or receivables or proceeds from such eggs or products derived therefrom, shall be held by such egg purchaser in trust for the benefit of all unpaid egg producers or suppliers of such eggs until full payment has been received by such unpaid producers or suppliers, unless such egg purchaser does not have average annual value of eggs obtained in excess of $100,000.

"(c) Payment shall not be considered to have been made if the egg producer or supplier receives a payment instrument which is dishonored.

"(d) The unpaid egg producer or supplier shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 507, or within fifteen business days after the producer or supplier has received notice that the payment instrument promptly presented for payment has been dishonored, the producer or supplier has not preserved his trust under this section. The trust shall be preserved by giving writ-

ten notice to the egg purchaser and by filing such notice with the Secretary.

"(e) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

"SEC. 504. Section 308 of this Act (7 U.S.C. 209) shall be applicable to egg purchasers with respect to transactions in eggs with egg producers or suppliers.

"SEC. 505. Section 406 of this Act (7 U.S.C. 227) shall be applicable with respect to eggs.

"SEC. 506. Section 408 of this Act (7 U.S.C. 228a) shall be applicable to egg purchasers and any transaction in which any egg purchaser obtains eggs from any egg producer or supplier.

"SEC. 507. (a) Each egg purchaser obtaining eggs from any egg producer or supplier shall, before the close of the seventh business day following transfer of possession of the eggs, deliver, to the egg producer or supplier from whom such egg purchaser obtains the eggs, the full amount due to such egg producer or supplier on account of such eggs.

"(b) Notwithstanding the provisions of subsection (a) of this section, and subject to such terms and conditions as the Secretary may prescribe, the parties to a purchase and sale of eggs other than under an egg production arrangement may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of, and on the accounts or other documents issued by, any egg purchaser which is a party to any such transaction, relating to the transaction.

"(c) Any delay or attempt to delay, by an egg purchaser which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for eggs obtained by purchase or egg production arrangement, shall be considered an 'unfair practice' in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term 'unfair practice' as used in this Act.".

SEPTA

Mr. SPECTER. Mr. President, I wish to report briefly upon a field hearing which I held on this past Monday, June 9, in Philadelphia concerning the operation of the Southeastern Pennsylvania Transportation Authority [SEPTA] system. SEPTA's Philadelphia transportation system serves 2,200 square miles with a population of 3.7 million people. Each day, bus, trolley, and subway lines carry approximately 1.2 million people. In addition to the transit system specifically, there are also community rail lines which carry some 90,000 people.

In 1984, Mr. President, there were six major train accidents on SEPTA which required urgent consideration in terms of safety remedial measures, and a number of reports and studies have followed. I am glad to say today that very significant improvements have been made by the SEPTA system, but there is still a great deal more which needs to be done.

□ 1030

There is an estimated need for approximately $984 million in capital improvements. The budget covers only a portion of those. These are considerations which I think the Congress will have to address. One suggestion which was made at this hearing as it relates to the commuter lines is that if, as, and when Conrail is sold—and as far as this Senator is concerned for reasons expressed at length on this floor, I hope it is not to Norfolk Southern because it would be disastrous for competition in this country—hopefully at a profit by stock offering, it may be that some of the funds needed at that time can be utilized for the improvement of the SEPTA system.

Mr. President, at this time I ask unanimous consent that the witness list, and the full text of the statements of those who appeared there be included in the CONGRESSIONAL RECORD because this hearing will provide insight for Members of Congress and others as to the problems of SEPTA and the approaches for correction. Moveover, it is illustrative of national problems in mass transit, applicable to areas other than southeastern Pennsylvania.

There being no objection, the witness list and statements were ordered to be printed in the RECORD, as follows:

TESTIMONY OF JOHN H. RILEY, FEDERAL RAILROAD ADMINISTRATOR BEFORE THE HONORABLE ARLEN SPECTER

The Federal Railroad Administration has jurisdiction over "all areas of railroad safety" (Federal Railroad Safety Act of 1970). We sponsor safety related research and promulgate safety regulations. We enforce those regulations two ways.

On site inspection of all carriers. These inspections are performed by our 325 field inspectors and, I should note that our headquarters for the eastern region is right here in Philadelphia.

We also perform thorough system assessments on an average of three carriers each year. The system assessment is a company-wide review of railroad operating practices, training programs, equipment and internal accountability procedures, among other things. Carriers are selected for assessment based on their accident records, as well as our field inspectors impressions on the adequacy of their safety programs.

Over time, this system has proven its effectiveness. Last year, was, by any measure, the safest in the history of the railroad industry. More significant, I think, is the fact that last year was not an aberration, but the continuation of a trend.

Since 1979, railroad accident rates have dropped 53.1 percent, employee fatalities are down 54.4 percent, on the job injuries have fallen 50.1 percent, and grade crossing accidents rates are down 26.6 percent.

Traditionally, our jurisdiction applied only to intercity freight and passenger service. But in 1983, Congress extended it to encompass commuter railroads linking Metropolitan and suburban areas. Commuter lines are now subject to the same inspection and assessment procedures used on other railroads.

Last year, SEPTA became the first commuter railroad to receive a complete system assessment. The reasons for SEPTA's selection are simple. When we reviewed 1983 and 1984 statistics on passenger casualties per million passenger miles, we found SEPTA to have the highest casualty ratio of any commuter railroad in the nation. During 1983, 1984 and the first three months of 1985, SEPTA experienced 24 train accidents on its commuter lines resulting in two fatalities, 657 injuries, and more than $1.7 million in reportable property damage. Between 1983 and 1984, most safety indices showed significant deterioration in SEPTA's performance: Passenger injuries increased 678 percent; train accidents per million passenger miles increased 87 percent; and employee workplace injuries increased 67 percent.

SEPA's passenger casualty rate per million passenger miles exceeded the aggregate rate of the Long Island Railroad, Metro-North, and New Jersey Transit by a factor of 36 in 1983, and factor of 174 in 1984. These are the types of indices we have traditionally used in determining where our assessment efforts should be focused, and the importance of an assessment on SEPTA was clear. (Incidentally, the Burlington Northern which had experienced 3 major freight accidents, and Amtrak, which had an acceptable overall safety record but experienced a string of very unusual incidents, were the other two carriers selected).

During the month of April 1985, a team of 30 FRA inspectors conducted a thorough, system-wide assessment of SEPTA's operating practices, signal and train control, locomotives and equipment, track, bridges, employment and recordkeeping. FRA informed SEPTA of its findings as it went along, particularly where the findings required immediate corrective action. In September and October 1985, FRA published an assessment report which detailed it findings. That report contained 140 specific recommendations.

Obviously, a report of that scope raises issues in many areas. The problems of greatest consequence, however, were focused in the areas of signal maintenance, training, and workplace safety programs. Principal causes of concern were as follows:

Signalling.—Signalling is one of the most critical aspects of railroad operation. Few areas have as direct an impact on passenger safety. Unfortunately, we found SEPTA signal maintenance to be generally poor, and in service testing inadequate. Over the course of its assessment, FRA tested 273 signals, 227 switches, and examined 700 test records. The overall defect ratio was approximately 50 percent. The importance of the problem was driven home when, on June 27, 1985, a collision occurred between two passenger trains at Schuylkill Interlocking. The post accident investigation determined that the collision was caused by a false proceed signal. The false proceed signal resulted from an improperly designed circuit which had been placed in service at the interlocking just six days earlier. The signal continued to flash false proceeds when it was tested during the post accident investigations. Had the installation been properly tested during its cutover on June 22, there is a high probability that the malfunction and design would have been detected.

In the aftermath of the June 27th accident, FRA required an immediate test of all similar signals on the SEPTA system. That assessment determined that four other sig-

nals suffered from defects similar to that which caused June 27th.

SEPTA's personal safety programs for employee's ranged from seriously deficient to non-existent. There were no local safety committees, and SEPTA did not provide injury investigation, cause determination and remedial action guidelines for supervisors. Nor did supervisor job descriptions make specific reference to responsibility for safety awareness. Moreover, SEPTA injury reporting procedures bypassed immediate and upper level rail supervisors, and the safety department did not routinely investigate employee injuries. Recordkeeping was poor, and employees received no formal acknowledgment when reporting unsafe conditions that might affect passenger or employee safety.

Sixteen percent of all SEPTA MU locomotives were found to be in violation of Federal safety standards; there wasn't a single car in the fleet that complied with Federal inspection, testing and marketing requirements. Of greater concern was the fact that carrier records revealed continued use of defective equipment, even after the defects has been discovered and brought to SEPTA's attention. The carrier often postponed or disregarded repairs. The movement of defective equipment in non-compliance with Federal regulations was discovered, incidentally, when the carrier failed to notify an engineer of a condition which could present an imminent safety hazard at normal operating speeds.

SEPTA's training programs were at best inconsistent. The railroad owns and operates two excellent training centers, and provides quality instruction to new hires. But SEPTA lacks a formal program to retrain experienced employees and supervisors, and provides no formal training whatsoever to train dispatchers and tower personnel. The training programs for operating officers did not include instruction in critical areas such as employee and passenger safety, accident investigation, handling of hazardous material emergency response, train dispatching techniques, and Federal operational testing requirements.

Our inspectors noted a nearly complete disregard for compliance with Federal regulations by employees and supervisors alike, including those who had graduated from SEPTA's formal training centers. The most serious areas of non-compliance included blue signal protection, hours or service, power brake regulations, track and signal inspection requirements.

SEPTA lacked an adequate emergency response program to provide basic guidance for responding to line of road accidents requiring passenger evacuation.

SEPTA utilized only one radio channel for all of its operations, a fact which resulted in an extremely over-burdened communication system. We were also surprised to learn that SEPTA was operating approximately 30 cars that were not equipped with radios of any kind.

On April 12th, a near miss occurred on SEPTA's Norristown line. On April 16th, FRA employees sent to investigate the circumstances were actually aboard a SEPTA train on the same line when a second near miss occurred. The incident revealed a pattern of causation that ranged from dispatcher error to inherent weaknesses in SEPTA's operating practice on the line. The matter was brought directly to SEPTA's attention, and the problems were corrected.

Not all the data revealed by the inspection was negative. We in fact, discovered several important areas in which SEPTA performed admirably. For example:

Track conditions were generally good, with the exception of the Norristown and Doylestown lines. Track maintenance was professional and in compliance with industry standards.

The assessment of bridge conditions performed by SEPTA's consultants was found to be accurate, and SEPTA's bridge department was knowledgeable, skilled and well managed.

All departments involved in SEPTA's railroad commuter operations were found to have excellent ratios of supervisory to craft employees.

SEPTA was found to have an adequate inventory of repair parts, and to have arranged support facilities capable of supplying parts to meet any foreseeable need.

Finally, SEPTA was found to be in compliance with all applicable noise regulations, and to have designed and executed a sound asbestos policy.

The cooperation we received from SEPTA personnel in the early weeks of the assessment was, frankly, very poor. However, as Lou Gould and other members of senior management became more actively involved in the effort, the situation improved dramatically. I believe that a sound working relationship has now been established between our safety inspectors and SEPTA management. Nowhere was that better illustrated than in the cooperative effort between SEPTA and FRA that resulted in the inspection and some cases retrofit of 260 hollow axle vehicles during the month of March.

I appreciate—and I think we all need to appreciate—that SEPTA management faces some unique and difficult problems. Not the least of those problems is that fact that SEPTA was formed from an uneasy marriage of two predecessor railroads. It is also true that current management inherited many of the systems problems, and the scope of those problems has only recently become apparent. But while I have sympathy with their situation, it cannot be an excuse for inaction on matters that have a direct and immediate bearing on public safety.

SEPTA is fortunate, in a sense, that the major problems unearthed in the assessment center on training and organizations; the "heavy capital", heavy expense items, particularly track, were found to be in generally acceptable condition. And I can tell this hearing that the worst of SEPTA's problems are behind it. Our follow-up detected improvement in virtually every aspect of the system's operations.

Signal maintenance is clearly improving. The inspections performed last summer identified and resolved the most immediate problems, and recent followup inspections suggest that SEPTA has cut its defect ratio more than a half.

Emergency response training was a major issue in last year's assessment. SEPTA has responded aggressively, and I now understand that all supervisory personnel and more than half of all train and engine personnel have received formal classroom training in emergency evacuation procedures.

To address short-term personnel shortages, SEPTA developed an aggressive and successful program to recruit experienced railroad employees from other railroads, and has established a 14-day training program for them.

In February 1986, SEPTA experienced its third axle/bearing failure on a hollow axle vehicle. FRA's subsequent review on SEPTA's maintenance records revealed a potentially serious situation that demanded immediate attention. After a consultation, SEPTA and FRA jointly implemented measures designed to detect incipient axle and bearing damage prior to equipment failure, and imposed a program of speed restrictions, ultrasonic inspection of tubular axles, and visual inspections each 30 miles for axles not yet ultrasonically inspected. This program ensured the safety of SEPTA riders while the problem axles were identified and replaced.

SEPTA has made significant progress and we expect that progress to continue. I commend Lou Gould and Bill Coleman for the work they've done to produce this improvement. We cannot afford to lose sight, however, of the fact there are serious challenges ahead. For example:

In our assessment report, FRA expressed considerable concern about SEPTA operating practices. SEPTA has made progress in the areas of staffing and control of dispatchers' functions, radio communications, blue signal compliance, electric traction procedures, and PCB training. However, we are not yet satisfied with SEPTA's responses in Hours of Service compliance, recordkeeping, uniformity of rear end marking devices, safety programs, operational inspections and observations, inspections of rear end markers at crew change points, yard limits, flag protection, hazardous materials, and simplification and compatibility of operating rules.

SEPTA's program of operational tests and inspections still does not comply with Federal safety requirements. For example, it does not state the frequency with which each test and inspection is to be conducted. This is a critical program, and its shortcomings must be addressed.

SEPTA is still not performing the signal tests prescribed by FRA regulations in a timely manner. For example, approximately 60 percent of the signal system relays are past due for testing. End cables and conductors are still in service that were found to have insulation resistance values below the regulatory minimum. These are serious conditions that require immediate response.

SEPTA has sought to respond constructively to FRA's recommendations. We realize that some require long-term improvement programs, and have attempted to work closely with SEPTA to assure that the most serious safety hazards are addressed first. We will continue to work with SEPTA management to seek constructive resolution of outstanding problems.

SEPTA has come a long way, and everyone involved in the last years efforts can take satisfaction in what has been achieved. It is a much safer railroad today than what it was a year ago, and I believe it will be an even better railroad one year from now.

STATEMENT OF WILLIAM T. COLEMAN, JR.

Thank you, Senator Specter. It is a pleasure for me to appear at this hearing to discuss a subject of such public importance as the safe operation of SEPTA's commuter rail system, the Regional Rail Division.

In January 1985, Louis F. Gould, Jr., the Chairman of SEPTA, announced that he had requested Robert J. Thompson, Chairman of the Railroad Committee of SEPTA's Board, to undertake a study of the Regional Rail Division. At the time the system was then called the Regional High Speed Lines. The Railroad Committee asked me to serve

as a special counsel to the Committee and, in cooperation with its Chairman, to lead a multidisciplinary team in a broad-ranging study of the Regional Rail. The team was to review the organization, operations, safety, physical condition, employment relations, and funding sources of the commuter rail system. While our study was a broad-ranging one, safety was an important consideration in our review. The purpose of our study was not to duplicate the NTSB's investigation of specific accidents, nor was it to perform an intensive audit of Regional Rail practices to determine the exact degree of compliance with federal and state regulations dealing with rail safety. Rather, our study addressed the broad issue of the overall safety of the system especially as it relates to other concerns of the Study: management, employees, funding and the condition of the infrastructure.

To assess overall safety, a number of analyses were performed. SEPTA reports on major accidents were reviewed and management's response to in-house recommendations for improving system safety were evaluated. SEPTA's accident reports to the FRA on major incidents also were reviewed. Additionally, FRA accident statistics for commuter rail operations were compiled to identify problem areas. SEPTA safety and accident procedures also were evaluated as well as SEPTA's program for compliance with federal and state regulations setting forth minimum safety standards and procedures. Finally, our extensive analysis of the system's physical condition provided information relevant to the safety question.

As you know, we concluded that the Regional Rail was not presently unsafe and that the Regional Rail could be operated safely in the future if management and employees emphasized the importance of safety and followed proper operating procedures. Further, because of the age of much of the Regional Rail infrastructure and equipment, and because many of the rail employees were new, we believed that management and employees needed to use extra care to ensure system safety. We made a number of recommendations to ensure the safety of the Regional Rail system. However, before addressing these recommendations in detail, I would like to address the issue of funding safety-related capital improvements for the Regional Rail.

On January 1, 1983, SEPTA assumed from Conrail the operation of the commuter rail system. With the transition from Conrail, SEPTA inherited a physical plant and vehicle fleet in less than satisfactory condition and an operating budget that under Conrail operation had been growing at a compound annual rate of 12.75%. Unlike Amtrak, SEPTA has been required to deal with safety and service reliability problems attributed to years of deferred maintenance without substantial support from the federal government. As I will outline below, many of our safety related recommendations required significant improvements in the infrastructure of the commuter rail system. However, without substantial federal support, SEPTA will not be able to implement these needed improvements.

It is a difficult time to suggest that the federal government ought to provide substantial assistance to public transportation systems. However, while I admit that national defense must be a first priority of the country, and that we must frame the federal budget to provide a safety net for the truly needy, I believe that this nation must make a strong commitment to maintain important physical systems such as the public transportation systems which provide benefits to millions of Americans across the country and thousands of Philadelphians.

Most recently members of Congress and interested parties across the nation have been debating the question of whether the federal government should sell the federally supported freight operations known as Conrail. If the members of the Senate and of the House of Representatives in their wisdom deem the sale of Conrail to be appropriate, I believe the Congress should commit to reinvesting the proceeds from the sale, in the nation's commuter rail systems such as SEPTA's Regional Rail. This only seems fair in view of the fact that these systems have been left with infrastructures in very poor condition as a result of the years of deferred maintenance by Conrail. Moreover, I believe that state and local governments must also vigorously support their public transportation systems. At present, SEPTA is operating without a dedicated source of state funding. It is time for the Commonwealth of Pennsylvania and the localities which the Regional Rail services to join hands and work to provide such a dedicated source of funding so that important capital improvements can be made and the continued safety and reliability of the system can be assured.

With that said, today I would like to outline briefly some of our study's more important safety-related findings and recommendations. Additionally, I would like to compare the findings of our report with the findings of the Federal Railroad Administration and the General Accounting Office regarding the safety of the Regional Rail. As you know, these two organizations studied Regional Rail system safety and completed reports after our investigation was finished.

COMPARATIVE STATISTICS

All three studies note that the Regional Rail injury rates for passengers and nontrespassers are higher than those experienced by other northeastern rail carriers. The same is true of employee injuries, as the FRA report demonstrates. It cannot be inferred from these statistics, however, that the Regional Rail is "less safe" than other railroads. All of these systems are unique and numerous factors can influence the rate of passenger injuries, including the effectiveness of the carrier's reporting system, the configuration and denisty of the system and whether tracks and facilities are shared with another carrier.

These comparative statistics did help to identify areas in which the Regional Rail needed to improve its safety performance. We found that better training, retraining and supervision was needed to reduce the accidents caused by human error and the large number of boarding and alighting injuries that occur on the system. We also found that a suprisingly large number of injuries occurred in Regional Rail facilities, especially stations and stops, and did not involve the movement of trains. We recommended specific capital expenditures to improve the safety of these facilities and thus to reduce those injuries.

PHYSICAL CONDITION

SEPTA inherited an aging rail system from Conrail and much of its track, stations, rolling stock, repair facilities and signals are in need of repair. Capital improvements like these are an important aspect of safety assurance because poor infrastructure and vehicles can themselves cause accidents or make human error more likely. In order to upgrade the Regional Rail infrastructure to "good" condition, or report recommended a total expenditure of $984.8 million between 1985 and 1990. According to the GAO report, SEPTA's budgets presently provide $410 million for commuter rail improvements through 1990.

I believe that our report, as well as the FRA's, supports the proposition that poor infrastructure can affect the safe operation of the Regional Rail. But capital improvements, of the kind contemplated in our report, can only be undertaken if adequate funding is available. Much of this funding must come from the federal and state levels.

In the absence of adequate funding, management must of course, make choices. In our report, for example, we recommended that the condition of Regional Rail stations be improved in order to help reduce the relatively large number of passenger/nontrespasser injuries experienced by SEPTA. Although management considers station improvements desirable, it believes them to be secondary to track, bridge, signal and passenger car needs. This is certainly a reasonable position given the impact these other improvements are likely to have on system safety. However, it does suggest that better results could be achieved with additional funding.

INSPECTION AND MAINTENANCE

Inspection and maintenance of equipment is an important part of system safety. While the Regional Rail had in place an inspection program for major system elements, it did not have a preventive maintenance program for major system elements. This lack of a preventive maintenance program was, in large part, caused by a shortage of funds and trained personnel. We recommended that the Regional Rail adopt an expanded program of inspection and preventive maintenance. Such a program required improvements to certain facilities and the addition of trained maintenance personnel, a difficult task in today's budget-cutting environment.

TRAINING AND MONITORING COMPLIANCE WITH OPERATING RULES

Good training is essential to ensure system safety. We reviewed operating personnel training programs for their sufficiency. We concluded that the programs to train new engineers and conductors were well designed and adequate to produce qualified personnel to operate train service on the Regional Rail. Additionally, we found that the training course for tower operators was adequate. We recommeded that the Regional Rail continue a vigorous training and retraining program. Further, we advised that strict enforcement of the Operating Rules should be made a higher priority. To monitor employee compliance with Operating Rules, we counseled that the Regional Rail should continue to pursue its program of administering tests on Operating Rules on a random basis throughout the year.

ACCIDENT PROCEDURES

We further determined that the Regional Rail procedures for accidents and emergencies needed to be revised and updated. For example, to improve the effectiveness and quality of accident investigation, we concluded that SEPTA should modify its Accident Investigation System Policy to establish a standard accident investigation team comprised of members of the Safety Division and the Regional Rail Operations Department; we concluded that this team

should conduct all investigations of accidents on the Regional Rail. We also recommended that SEPTA further develop relationships with emergency response agencies within the region to coordinate agency response planning and institute formalized training programs to improve emergency preparedness. We also recommended that emergency response procedures should be set forth clearly and made readily available to SEPTA personnel and to other individuals and agencies who might be required to respond to emergencies.

SAFETY MANAGEMENT

As we outlined in our section of the report which deals with management, the Regional Rail system did not have clearly defined safety goals which served to coordinate the activities of the various departments in the Regional Rail which have risk or safety functions. We concluded that it was important that SEPTA adopt a clear statement that safety is an overriding goal of the Regional Rail system. Further, we urged that this goal be communicated not only to the managers but to all employees who have responsibilities for the Regional Rail.

With respect to the management structure, we found that there was no one individual in the SEPTA organization whose job it was to monitor specifically overall safety performance and Regional Rail compliance with the FRA regulations. Accordingly, we concluded that to improve system safety, SEPTA should make the Safety Division responsible for monitoring compliance with all FRA regulations.

We also found that central to any safety program was a safety management information system; injuries could not be avoided and losses controlled unless SEPTA developed a data base that could be used to identify trends in on-the-job injuries or injuries to passengers in stations. Accordingly, we concluded that SEPTA should develop a comprehensive data base for employee and passenger accidents/injuries on the Regional Rail so that managers could understand the nature and extent of safety problems on the Regional Rail and take appropriate action.

Our findings and recommendations related to inspection and maintenance, training and monitoring compliance with operating rules, accident procedures, and safety management, are similar in thrust to those reached by the FRA. However, based on a day-to-day performance audit, the FRA has reached the conclusion that employees and supervisors of the Regional Rail did not demonstrate the commitment to compliance with FRA safety regulations as they should. Because we did not attempt to perform a day-to-day audit of Regional Rail compliance with FRA safety regulations, I cannot speak to this issue. However, I can state that after interviewing over 60 managers in the system that the management team is a young, energetic and talented group. Additionally, I was convinced that that group was very much concerned with system safety and was committed to ensuring the reliability and safety of the system.

Both the GAO and FRA reports note that SEPTA has improved its safety performance since it assumed control of the Regional Rail in 1983. The GAO report also states that SEPTA has taken a number of positive steps in response to our study as well as the FRA's. I therefore believe that our conclusion that the system can be operated safely still holds true today.

ORAL TESTIMONY OF LEWIS F. GOULD, JR., BEFORE SENATOR SPECTER HEARING

Good morning, I am Lewis F. Gould, Chairman of the Southeastern Pennsylvania Transportation Authority (SEPTA). I appreciate your concern for regional rail safety in this region. It is a concern that we share.

For the record, I am submitting substantial written testimony which expands on my opening remarks.

On January 1, 1983, SEPTA assumed direct operating control of the regional rail system from Conrail. This transfer was accomplished under Federal legislative mandate through the Northeast Rail Services Act of 1981 (NERSA).

The takeover, as you may recall, resulted in major changes to the railroad, including all new labor contracts, consolidation of seniority districts, loss of a substantial number of experienced employees and addition of an entirely new type of operations to the SEPTA system. In addition, the physical plant which SEPTA inherited was in dreadful condition.

Since takeover, SEPTA has made substantial progress in many areas, safety being only one of them, and has accommodated drastic changes to the nature of the service itself. In 1984, the Center City Commuter Connection (the Tunnel), opened, As a result, the entire route structure and operating characteristics of the railroad changed. Less than a year later, the Airport High Speed Line opened. During the same time period, SEPTA has been able to restore service where cuts had been made due to employee shortages and increase reliability. As a result, ridership has grown from approximately 56,000 passengers a day, following the takeover, to almost 100,000 passengers a day.

Much of the public attention to the railroad, however, has been caused by two unfortunate accidents and a bridge closing. SEPTA also took these events very seriously and, in fact, commissioned former Secretary of Transportation William T. Coleman, Jr. to do a comprehensive study of the regional rail system. In addition, the Federal Railroad Administration (FRA) conducted a special assessment of the regional rail operation.

As a result of SEPTA's management initiatives and the recommendations of these two studies, a number of things have occurred. SEPTA has instituted comprehensive training programs for operating personnel and supervisors. The Rule Compliance Testing program has been strengthened. A drug and alcohol program has been instituted. All these programs emphasize safety. In addition, bridge and signal inspection programs have been made more thorough and comprehensive.

However, the era when SEPTA can make regional rail improvements, both safety-related and otherwise, on a rubber band and paper clip budget is rapidly drawing to a close. Many of the recommendations made in both the Coleman and FRA reports require substantial capital investments.

For example, SEPTA has 435 bridges which average seventy-years of age. Twice, already, since takeover, bridges have been closed for safety reasons, causing service disruptions until repairs could be completed. Overhead wire, track and signals throughout the system need replacing. There are 180 stations and parking lots, many of which need basic repairs, lighting, paving and other improvements. Vehicles need major overhaul or replacement.

The Coleman report estimated the capital needs of the railroad at approximately $1B between 1985 and 1990. None of the multitude of reports and studies on the regional rail system has ever indicated major safety problems. However, in the long term, the largest potential safety problem for the system as a whole, and all its individual components, is the lack of adequate capital funds. SEPTA will not run an unsafe railroad. Where safety problems occur we will shut down an element of the system if necessary. Our biggest fear, however, then becomes that since we will not run an unsafe railroad, we may not be able to run a railroad at all.

Thank you. I will be happy to answer any questions.

TESTIMONY OF LEWIS F. GOULD, JR.

Good morning Senator Specter. I am Lewis F. Gould, Jr., and I am the Chairman of the Southeastern Pennsylvania Transportation Authority (SEPTA).

I come here today at your request to talk about safety on the regional rail system. I would like to address the strides and improvements made on the system since SEPTA assumed responsibility for operations on January 1, 1983; more specifically I would like to discuss the recommendations of the various investigations which have taken place since 1983, and the status of those recommendations. I would like to emphasize here that all of these investigations reaffirmed SEPTA's ability to provide safe regional rail service.

Of equal importance in this forum is the need to reiterate the importance of continued Federal funding if SEPTA is to continue to operate safe, reliable regional rail service in the Philadelphia region.

Before I get into any specifics I should give you a brief description of the service area involved. SEPTA operates 13 regional rail branch lines including the Airport line, over 530 track miles and carries almost 100,000 daily riders. The fleet consists of 338 cars, (including the only pre-World War II railroad cars still in service in the United States), most of which are in dire need of overhaul.

Transition is never easy. On January 1, 1983, SEPTA assumed from Conrail the operation of the regional rail system serving Philadelphia and the four surrounding counties of Bucks, Chester, Delaware and Montgomery and a small portion of New Jersey. SEPTA inherited a physical plant and vehicle fleet in a deteriorated condition.

After experiencing a 108-day strike SEPTA then had to endure a loss of engineers and conductors through the "flow back" process to Conrail freight operations and early retirement options exercised by rail employees.

SEPTA started to increase service levels on the regional rail lines in October 1983 and at this time SEPTA started to gear up for the opening of the Center City Commuter Connection (tunnel) uniting two separate rail networks—the remnants of the former Reading Company and the Penn Central. On November 12, 1984, Philadelphians celebrated the long awaited opening of that tunnel only to be dismayed by the cessation of service due to a severely deteriorated bridge at 9th Street and Columbia Avenue on November 19, 1984. Emergency plans were immediately implemented and service was restored on December 15, 1984. This record-breaking fete was marred by two accidents, one at the Narberth Station and

one at the Jenkintown Station, both attributed to human error on the part of experienced railroad employees.

Commencing almost immediately after these two unfortunate accidents the SEPTA Board commissioned former Secretary of Transportation William T. Coleman, Jr., to perform a comprehensive study of SEPTA's regional rail operations. Overall, the system was found to be safe and could be operated safely as long as the employees followed the Book of Rules setting forth operating procedures. The most important recommendation of the Coleman investigation is a fiscal one—to restore the regional rail infrastructure to an overall condition of "good," a total expenditure of almost one billion dollars ($984.8M) should be spent between 1985 and 1990. Senator, I am sure you are keenly aware that SEPTA has no source, at the present time, for an expenditure of this magnitude. However, I will defer the funding dilemma until later in my testimony.

Overall, the Coleman Report made ninety (90) recommendations. They have been categorized in the following areas. 1. Safety, 2. Reliability, 3. Labor and Management, 4. Public Information and Perceptions, 5. Service Improvements, and 6. Finance, Funding and Policy. To date, 37 of these recommendations have been completed; 30 will be completed by the end of the year, and seven are long-range and will require additional time to implement. Twelve of the remaining recommendations address implementation of ongoing programs and four (4) others will require a scheduled completion that cannot be determined at this time. One of those long term recommendations is to acquire proceeds from the sale of Conrail which, to date, has been fruitless since no determination has been made on this sale.

Before moving on I would like to quote a few passages from the Coleman Report if I may. "In all, however, SEPTA management has acted with skill and speed to bring about a difficult transition under less than optimal conditions . . . Upper level managers in SEPTA with responsibilities for the regional rail service are a highly capable group of executives. For the most part, senior level managers who "inherited" the regional rail operation understand that the operation presents a unique set of problems. These managers commendably are adjusting their agendas to address the problem areas. The public, including elected officials, should appreciate the dedication, knowledge and commitment they give to performing a very difficult task."

Prior to 1983, there had not been any significant capital investments in the infrastructure for decades. With the improvements made by SEPTA in the past 3½ years the physical plant may be better today than at anytime when service was operated by Conrail but a substantial portion of the railroad infrastructure remains in a substandard condition.

In summary, since the tunnel opened (November 1984) manpower has stabilized, higher service levels have been instituted, ridership has increased by 30% despite two fare increases, on-time performance is better and employee morale has improved.

FEDERAL RAILROAD ADMINISTRATION [FRA]

SEPTA's accident history in 1983, 1984 and the first three months of 1985 prompted FRA to conduct a special assessment of the regional rail operation in April 1985. This special assessment was conducted by over 30 inspectors and focused on SEPTA's operating practices, signal and train control, plant and equipment, and employee training. After the FRA field inspections were completed, another train accident occurred on June 27, 1985, caused by a false proceed signal. FRA then conducted another assessment of SEPTA's new signal installations.

A report of both assessments was issued in October 1985. FRA found that SEPTA's operating procedures were improving; but that some areas required attention, such as employee and supervisory training, records of safety compliance, emergency response plans, and physical condition of facilities.

The report recommendations paralleled the Coleman study in such areas as emergency response planning, employee training, and upgrading of facilities.

The Authority appreciates this effort by the FRA to aid SEPTA in improving the safety of its railroad operations. However, while the Authority does note that some of the concerns and recommendations offered in the assessment are well-taken, SEPTA has substantive concerns and disagreement with many aspects of the report.

SEPTA will make every effort to comply with those recommendations which are valid and fall within the scope of responsibilities of the FRA. Many of those recommendations were identified by SEPTA itself well in advance of the FRA Assessment and as the assessment team well knew, many had already been totally or partially addressed.

Implementation of these recommendations will be contingent upon the levels of operating and capital funding we receive in the future. In that context we hope that the FRA will actively seek additional funding to help SEPTA and the other transit agencies who are operating railroads as a result of Federal law (NERSA) which mandated local operation of regional rail service. With that mandate came responsibility for a physical plant which the FRA assessment as well as other recent evaluations have declared to be in a deteriorated state. That deterioration has occurred over decades, not two years.

Subsequent to the public release of the assessment FRA Administrator John Riley was quoted as stating that he has encouraged and would encourage members of his family to ride SEPTA's regional rail service. SEPTA appreciates that vote of confidence.

MAJOR IMPROVEMENTS IN THE PHYSICAL PLANT SINCE 1983

New Construction:

Center City Commuter Connection (tunnel)—opened on November 12, 1984. $345M

Airport Line—opened on April 28, 1986. This line is approaching 2,000 daily riders. $89M

Major Bridge Rehabilitation:

Crumm Creek Bridge—$1.4M.

Columbia Avenue Bridge—$2.4M.

Major New Track Construction—$35.7M.

CWR on Media Line;

CWR on Chestnut Hill East Line;

CWR Between Lansdale and North Broad;

CWR on Doylestown Line;

CWR on West Trenton Line;

Tie and Surfacing and grade crossing improvements at 22 locations.

Major Power Improvements:

New Solid State converter at Wayne Junction—$12.1M.

Major Signal Improvements:

New Signals installed between Brown Street and 16th Street Junction on the Ninth St. branch (portions still under construction)—$13.6M.

Major Interlocking Improvements:

Broad Tower—$10.2M.

Car Related Improvements—$41.3M.

Silverliner controllers modified to prevent overriding the deadman safety feature.

Implementation of Hollow Axle Replacement Program—to be completed by December 1987.

Rear Marker Light Program.

Assigning radios to Reading Blues.

Cab Signals installed on Reading Blues.

Reading blues VOH/Stabilization Program.

Overhaul for Silverliners II's and III's.

Silverliner IV Preventive Maintenance Program.

Window glazing of Silverliners.

Speed indicators and noise modification valves.

REGIONAL RAIL DIVISION INSTRUCTION PROGRAMS

I am proud to say that SEPTA is leading the way in the industry for the development and implementation of a highly successful Personnel Training Program. SEPTA currently employs 189 engineers and 198 conductors with a median age of 29 years, and for the first time in over two years SEPTA is not hiring new trainees.

The training program is a rigorous one but the job responsibility is great. The training programs are listed in SEPTA's training course catalogue. I would like to highlight the major components of these training programs, both for new hires and experienced employees.

Training of new hires without previous Railroad Experience:

(1) Passenger Attendant School:

Includes SEPTA Operating Rules, Equipment training, Airbrake training, Revenue Instruction, and On-Job Training.

(2) Conductor School:

SEPTA Physical Characteristics, Amtrak and Conrail Operating Rules, Amtrak Physical Characteristics, Training on Non-Revenue Equipment, On-Job Training.

(3) Engineer School:

Includes SEPTA Operating Rules, Equipment training, Airbrake Training, SEPTA Physical Characteristics, Equipment handling, Amtrak Operating Rules, Amtrak Physical Characteristics, Conrail Operating Rules and On-Job Training.

(4) Towerperson School:

Includes SEPTA Operating Rules Class, Field Instruction, Line Familiarization and On-Job Training.

(5) Signal Maintainer School:

Basic features of the training subject matter includes automatic block signaling, interlocking switching and signaling, grade crossing equipment, remote control of signals and switches, Federal Railroad Administration (FRA) requirements and SEPTA Safety Practices.

Training Experienced Employees:

(1) Conductors and Engineers:

Annual Safety and SEPTA Operating Rules Review;

Air Brake, Electrical Trouble Shooting and Emergency;

Evacuation Procedures Annual Review;

Annual Amtrak Operating Rules Review;

Annual Conrail Operating Rules Review;

Annual (Biennial for Conductors) Medical Physical.

(2) Train Dispatcher School:

Includes Operating Rules, Field Trips, Physical Characteristics, Tower Familiarization, and On-Job Training.

(3) Airport Line School:

Includes special training in accommodating visitors to the city who are not familiar with Philadelphia and/or the SEPTA system.

Training for Supervision:

DRUG AND ALCOHOL

Purpose: To enable both supervisors and hourly employees to recognize and identify employees that are working while being under the influence.

Goal: Ensuring that the public be provided with safe, reliable service by having all employees understand the dangers of performing service while under the influence and that SEPTA will not permit any violations.

Supervisory Personnel: Attend an 8 hour class annually.

Hourly Employees: Material is included in their annual operating rules review.

CAPITAL NEEDS OF THE REGIONAL RAIL DIVISION [RRD] INFRASTRUCTURE

As mentioned earlier in my testimony, the Coleman Report has identified capital needs on the regional rail infrastructure approaching one billion dollars.

Basically, the infrastructure consists of the major fixed plant facilities found in a system. In SEPTA's case, it consists of:

1. 180 stations and parking lots;
2. 200 miles of overhead wire and track;
3. 12 electrical substations for propulsion power;
4. a systemwide signal train control system;
5. a systemwide radio communications system;
6. 2 passenger car rapair shops;
7. 2 passenger car storage yards;
8. 435 bridges and structures (average age of 75 years); and
9. associated offices and administrative headquarters.

The condition and reliability of the infrastructure is determined to a large degree by the maintenance it receives. However, in SEPTA's case, maintenance is not enough. It cannot make up for the decades of neglect, deferred maintenance and lack of capital improvements that the regional rail system has suffered. The result is a system infrastructure that is prone to equipment failures that result in train delays. These delays can degrade system performance to the point where our passengers desert the rail system for other modes of transportation.

Major capital improvements must be made to the various elements of the infrastructure to both halt the progressive deterioration, and to return the system to the point where maintenance can be effective in providing a reliable system. Just like organ transplants to the human body which have become so commonplace today, the railroad system infrastructure needs an infusion of new equipment and materials to replace antiquated and worn out facilities.

Following are some of the critical areas of the railroad infrastructure that we must address if we are to improve the reliability and insure the safety of the railroad operation.

BRIDGES

In the forefront is the need to revitalize or replace the 435 bridges and structures for which we are responsible. The average age of these structures is 75 years, which means that most were built before World War I (in fact 25% were built before the turn of the century).

A thorough inspection of each bridge has revealed areas of potential problems resulting in speed or load restrictions. Just this past month serious cracks were found in the 103 year old, wrought iron bridge that carries the Chestnut Hill West line over Cresheim Valley. The 434' long, 95' high bridge has been taken out of service and emergency repairs undertaken by SEPTA. These repairs are only a temporary expedient to restore restricted service. The replacement of this bridge, which may well exceed $5 million, is not funded.

Of course, most importantly, we want to avoid any repetition of the serious problem that occurred in late 1984 when the Columbia Avenue Bridge had to be condemned and reconstructed.

To avoid such major inconveniences to our passengers, a formalized plan for proper repairs with minimum disruption to service must be formulated and funded. Such a plan has been prepared, but the cost is high. In all, our bridge repair program is expected to cost $180 million.

ELECTRICAL

Bridges are not our only concern.

Miles of overhead and underground electrical cables and overhead wire need replacing.

The electrification system, catenary, transmission lines and substations is basically unchanged from that installed in the 1930's and in most cases is the original equipment.

To really cure the problem and end those delays caused by power problems, the entire electrical system must be rehabilitated and enhanced by the present technology available to us. This renewal has started with the installation of electronic power conversion equipment to replace rotary equipment.

Not only will this improve our system performance, but it will also improve efficiencies in our energy consumption. Our electric bills for railroad operations alone are over $13 million and increasing steadily.

TRACK

We also must replace major portions of track, installing new rail, new turnouts and crossovers, replacing old, rotting wooden ties, improving drainage and clearing away trees and shrubs encroaching on the track right-of-way. This will provide a smoother, quieter ride with less maintenance. To date, approximately 50 miles or a quarter of the track system has been upgraded.

SIGNALS

Of equal importance is the rehabilitation of the antiquated signal system. Approximately 20 percent of the system has been replaced to date, but we must forge ahead to upgrade and replace the remaining 80 percent as this system is vital to safe train operation.

STATIONS

Most important to us are the needs of our passengers. Plans have been made to improve our stations, from repainting some stations to completely remodeling others. Improvements include: repairing platforms, improving station and parking lot lighting, repaving and repairing parking lots, and repairing stairways.

SEPTA also plans to install a Public Address System for announcing train service and expand the use of automatic ticket dispensing machines.

In addition to the capital needs of the infrastructure, SEPTA is in dire need of funding to replace thirty, 54 year old Reading Blue Cars.

All of these plans and improvements can and must be accomplished to bring the System back to a level of service it once provided. However, in order to do this we need financial support and commitment.

The Administration's Budget Proposal for fiscal year 1987 proposes to reduce Federal funding for mass transit by 67 percent—we could never recover from such a devastating blow and SEPTA would be forced to discontinue much of its service.

Since the Federal Government provides 75–80 percent of SEPTA's capital funding, with State and local funds serving as match, I am asking you, Senator, as a member of the Senate Appropriations Committee and a native Philadelphian, to continue your crusade for sufficient Federal funding to address the capital needs of the regional rail system.

In conclusion, I appreciate this opportunity and would be happy to answer any particular questions you may have. Thank you.

TESTIMONY OF ROLAND E. MCKENZIE

My name is Roland E. McKenzie. I am the General Chairman for the Brotherhood of Railroad Signalmen. I am appearing here today as a spokesman for my craft. Accompanying me is Mr. James K. York, Executive Assistant General Chairman.

The Brotherhood of Railroad Signalmen is concerned with the Signal Safety and Communications in the Railroad industry, thus providing safety for the traveling public, whether through signal systems or grade crossings. Since 1901 the Signalmen have adapted to all changes—be it weather or equipment.

When Consolidated Rail Corporation transferred its Commuter Rail Operations to SEPTA on January 1, 1983, conditions were not the best. With the inception of SEPTA came some of the most adverse and appalling conditions the Brotherhood of railroad Signalmen have ever seen. The deterioration was caused by unqualified management, poor training, and poor morale.

1. SEPTA management has failed to address safety and poor conditions of the system. Employees of the Signal Department have not received instruction or training to meet requirements of the Railroad Administration. Training was established by SEPTA for newly hired employees, but SEPTA has failed to supply advanced training for former employees from the takeover. Information received from the field has indicated Signal Department Employees have never received instructions on the RS&I Rules, Safety Classes, and/or Book of Rule Classes. Our information also indicates no instructions have been given governing the construction and maintenance of signals and interlockings, or making tests of signal apparatus.

Furthermore, SEPTA has failed to establish a safety committee as suggested in the 1985 Safety Assessment, but yet expects the utmost in safety performance from their employees. Tests, maintenance, and performance on signal apparatus cannot solely rely on common sense, but must also be an acquired skill.

2. Morale: Morale is a very serious problem on SEPTA. As you know, morale affects each and every employee in job performance and productivity. In higher levels of management SEPTA's perception is self-serving because management is asking their "Boardroom Buddies" questions on low morale. Top management should go right out on the property and ask each employee, gang or section member to answer their questions concerning low morale. Thereby getting the information first hand but not necessarily what they want to hear. Morale was addressed in the Coleman Report, but has since deteriorated to seriously low levels.

3. Signal safety and crossing safety are very serious subjects and dear to my organization. Not only does signal safety and crossing safety affect your life but also mine and thousands of riders who use public transportation. Presently there are 8 crossings on SEPTA that have been installed by a contractor called S.A.B. to this day have not been point checked by signal forces of SEPTA. SEPTA in the 1985 Safety Assessment was thoroughly admonished by the FRA but only in words. Many of the conditions which were of concern by the FRA still exist today. This is now 1986—one year later!! Why do these conditions still exist? Why hasn't the admonition been taken seriously as intended and put into action? Are these reports for casual reading? Of course Not!

I strongly suggest another Safety Assessment be made of SEPTA and this time the actions of the FRA should be firmer in the assessments of appropriate fines.

4. As raised in the FRA Safety Assessment, SEPTA has an inadequate number of testmen to perform safety tests and inservice work on the Carrier's rail lines.

5. Let it be known SEPTA has refused our assistance and knowledge. As we have and will continue to be available to SEPTA to assist in becoming a safer and better rail passenger carrier. Safety to our members and riding public is of the utmost importance. No stone must be left unturned in assuring safety.

SEPTA has failed to deal with the Coleman, FRA and GAO Reports in a serious and responsible manner. Again, we urge another Safety Assessment with SEPTA. And urge all of you to treat these matters as serious as they certainly are. From where then, gentlemen, will it start?

STATEMENT OF JOSEPH LINDSAY

Thank you, Senator Specter, for affording the BRAC organization the opportunity to address this very important issue. "Safety must be the first priority of a commuter rail system".

In analyzing SEPTA's operation we note they have the: 1. presence of safety operating rules; 2. training of individuals in operating rules; 3. enforcement of safety operating rules; 4. more than adequate supervision to enforce these rules.

Since May, 1985 when the honorable William T. Coleman, Jr., "special counsel for SEPTA railroad committee" made his report on his findings of the regional high speed lines, SEPTA has made some significant improvements in their overall operation, but they still have a long way to go in some areas.

For example, in Mr. Coleman's report in 1985 he points out the problem of "Broad Tower". He states it's poorly designed for present requirements, and overcrowed during peak hours. It's dirty, dark and dingy and could use repainting tomorrow. "One would be hard pressed to find worse conditions than Broad Tower on the Entire SEPTA System".

Well gentlemen, let it be know that situation has not improved but, has gotten worse from a safety point of view. There are wires hanging from the ceiling, wires laying around, still dark, dingy and dirty and now we welcome roaches, ants and rodents to the domain.

Other tower locations are not as bad but there still exists poor equipment, no locker facilities, improper heating and air conditioning and, at one location unusual type fumes which no one can seem to identify.

SEPTA moves employees from one assignment to another, from one location to another, which in itself is an unsafe act. An individual who is moved from one shift to another not given proper rest, can become confused or even exhausted from the constant realignment he is subjected to. This is not conducive for safe operating procedure.

Because of the poor physical surroundings this causes low morale which in turn does not afford the employee an opportunity to work in an environment where he does his job in a safe and efficient manner.

We are cognizant of the fact that for SEPTA to correct these deficiencies they do need a funding base to help them in correcting these problems. The Federal Government as well as State, county and city should take the action necessary to expedite the proper channels to secure funds necessary to address these unsafe situations. Continuously raising fares is not the answer. Only by hearings such as this open to the public will we be able to address what problems and solutions are needed. Thank you, Senator Specter, for this opportunity.

STATEMENT OF THOMAS C. BRENNAN

Let me begin by stating that I do not intend to use this forum as a means of criticizing SEPTA management for their role in the poor safety record on the commuter rail lines. The tragic and disgraceful events of the past forty-one months have been well documented. The Federal Railroad Administration has done a thorough job in assessing safety and I believe that most of the concerns and recommendations cited in their report are well-founded.

The most obvious concern is with the relative frequency of accidents on SEPTA. If you were to include the numerous incidents which occurred that were not made public, but nonetheless were extremely serious because the ingredients for disaster were present, then the frequency rate would skyrocket. I will not elaborate on the details of these "near-misses." It is sufficient to say that we are very fortunate to have avoided a major catastrophe. Hopefully, the proper controls on actual train operations are now in place.

The Regional Rail Division management has undertaken steps to implement many of the recommendations of the Coleman and FRA reports. In doing so, they have improved somewhat the overall safe performance of their operating employees. Most of the managers I have dealt with in the Regional Rail Division are sincere in their efforts to correct those past practices which adversely affected operations. However, in spite of their attempts these managers appear to be constrained by what is commonly referred to as "SEPTA policy."

"SEPTA policy" is a vague, elusive concept which is conveniently applied whenever and wherever the managerial heirarchy wishes to impose its will. It is extremely important to mention this issue here since we (BLE members employed by SEPTA) sincerely believe that the prevalent philosophy among upper management for dealing with labor is one of dictatorial control of the work force. As evidence of this we need only to examine the relationship between SEPTA management and its Transit Division employees. There have been nine strikes since 1961 with the most recent occurring this year.

The traditional "take it or leave it" attitude of SEPTA negotiators has carried over into their dealings with the rail labor unions. This posture is a big impediment to alleviating the tremendous morale problem among engineers. Until we establish a positive mental and emotional work environment we will continue to experience severe safety problems.

Contrary to public statements by SEPTA officials the morale issue is a very real problem among Regional Rail Division employees that has persisted since SEPTA assumed operations in 1983. In fact, a recent survey of engineers showed that 96% of those polled felt there has been little or no effort made to correct serious morale problems caused by employee harassment, unrealistic work assignments, poor general working conditions, a discipline system based on intimidation, and a general disregard for the dignity and best interest of rail employees.

Poor morale is the single most important problem we face due to its direct relationship to substandard job performance. The strong correlations between substandard job performances and safety violations is obvious. In order to consistently perform safely and efficiently an engineer must be alert. He must have the ability to recall the most insignificant operating rule at a moment's notice. He must be qualified on the physical characteristics of hundreds of miles of railroad. He must not be burdened with archaic labor policies that destroy his morale.

In conclusion I would strongly recommend that SEPTA's Regional Rail Division become a separate and distinct entity not controlled by inappropriate transit authority policies.

STATEMENT OF EDWARD DUBROSKI

REPORT ON SEPTA'S SAFETY

From the very first day that SEPTA began operating their railroad, it was quite evident to the Unions that the people who are in charge of labor and operations have a very limited experience in operating a large railroad.

There has been some changes in regard to having an experienced railroader, but, even this person lacks the authority to make viable changes.

Actually, comparing SEPTA to New Jersey Transit, you will find that there is a big difference. New Jersey Transit's operation of a railroad is much more desirable.

In regard to experienced engineers: SEPTA could have agreed to a flow back agreement with Conrail which was endorsed by the Union, and, in my opinion, a very viable plan; but, instead, they became involved in a training school where they hire people off the streets with no experience in railroading and they pay these people a substandard wage.

Half the people in the school are not able to pass the examination and the other half who are able to complete the program have no experience with train orders or on how to make any movements.

Regarding the hours of work; the engineers are working many hours per day, six days a week. Furthermore, on their day off they have to attend classes because SEPTA will not conduct the classes during their layover. It is really causing a bad morale problem. The B.L.E., requested that the air classes be reduced, because many aspects which are discussed have nothing to do with the subject, however, their request was denied. It is quite evident that SEPTA's policies are creating unnecessary hardships for the employees.

Regarding discipline: In reference to being disciplined, it seems that the employee is not receiving a fair deal or another way of

saying it is, the employee is not getting his day in court. This also is causing a bad morale problem with the employees.

Regarding alcoholism: It has been confirmed that alcoholism is a disease, it's a sickness which possibly affects fifty percent of the population. It affects every branch of our society, even the military and our government employees.

SEPTA has a very practical way of dealing with an employee who drinks, which is ridiculous, they fire their employees. Furthermore, they will not allow this employee to return to work, even though he has completed a program that deals with the problem of drinking.

Conrail has accepted the fact that alcoholism is a disease and they will allow an employee to return to work after he completes the alcohol program.

Train orders: SEPTA's policy is a light system at the train station to alert engineers, however, they don't receive a clear signal. The problem is, there might be a power failure or an operator who forgets to give a train order light signal, and of course, then the train will pass by the tower without receiving a train order.

It's imperative that the operator give a restricted signal; he furthermore, should stand along the right side of the track and have with him flagging equipment.

Too many people in the cab: SEPTA allows personnel in the cabs if they have with them, head end passes. It is too confusing to the engineers when too many personnel are riding in the cab.

Sanders: Regarding MU equipment. There is no federal law stating that you must provide sand, however, experience has shown that the only way to start or stop an engine on a wet rail or a rail that has oil on it, is to put sand on the rail.

Regarding this matter, you can ask the riders who ride the trains regarding the station stops, because of a tight train schedule.

We have read many reports, regarding SEPTA's policy of not complying with federal laws, in fact the B.L.E. gave a report to Mr. Coleman, as to why SEPTA's operation of railroad will not work. Later, the F.R.A., came out with a report regarding SEPTA's negative policies and the fact that they don't comply with federal laws.

It is important that if SEPTA wants to operate a safe and efficient railroad they must comply with federal laws and they must treat their employees with respect and dignity.

All of the aforesaid aspects must be corrected. One must be cognizant (aware) of the fact that all of these aspects place a lot of stress on engineers. All you have to do is to peruse the B.L.E.'s stress report regarding Amtrak engineers and the problems that are caused by stress.

There are many more aspects that I would like to talk about; however, I cannot cover too much because I only have four minutes in which to deliver my speech, making it almost impossible to delve into the many problems that are currently present in SEPTA.

Mr. SPECTER. I thank the Chair. I yield the floor.

RECOGNITION OF SENATOR HEINZ

The PRESIDING OFFICER (Mr. ABDNOR). Under the previous order, the distinguished Senator from Pennsylvania (Mr. HEINZ) is recognized for not to exceed 5 minutes.

S. 2547—THE 1986 ESRD PATIENT RIGHTS ACT

Mr. HEINZ. Mr. President, 4 hours every day, 3 days every week, 52 weeks a year, some 78,000 Americans go to a kidney dialysis clinic—there are some 1,200 of them—for literally life saving kidney dialysis. At a Senate Special Committee on Aging hearing this March, myself and the other members of the committee learned that the majority, tens of thousands of Medicare kidney dialysis patients may be exposed to dangerous and unnecessary risks in the multiple reuse of filters, blood tubing, and other devices.

I have brought here today an example of what is blood tubing, and what is in a sense an artificial kidney, a capillary flow dialyzer that is used when one of these 78,000 Americans several times a week, every week for the rest of their lives is dialyzed.

What we found is that these risks are dangerous, they are unnecessary, and today together with Senators GLENN, BINGAMAN, KENNEDY, NICKLES, and WILSON I am introducing the ESRD Patient Rights Act of 1986 legislation to address the problem.

What is kidney dialysis? Well, it is a critical life-sustaining treatment required to remove the toxins, the salt, and the water that accumulates in the blood of the person whose kidneys have ceased to function because of what is called end stage renal disease. Treatment requires extensive time. It requires it every week, as I have mentioned, and the only alternative to dialysis is kidney transplantation.

While there appears to be no consensus among the experts as to the ultimate safety of the reuse of dialysis equipment, there is very great concensus that safety of reuse cannot be assured without standards.

And every single piece of equipment that is used in dialysis—by the way, the Federal Government under the Medicare Program reimburses if it is a new piece of equipment every time—in the small print which no one can read, but except with glasses. It says "This dialyzer is recommended for one-time use only."

There are no standards on the number of times, if more than once, that this dialyzer or those tubes can be used. We do not know the answer to how many times these tubes can be used before they crack or before there is blood clotting, or before there are harmful deposits that occur in them. We also need to determine what is the most safe and effective sterilizing agent. Most clinics use a formaldehyde, which is a known carcinogen.

Mr. President, this legislation is the first step in responding to the substantial and troublesome problems brought to light through the investigation and hearing conducted by the Senate Special Committee on Aging regarding reuse of kidney dialysis devices. This legislation will provide dialysis patients with information on the potential risks and benefits of reuse, give patients the right to choose or reject dialysis treatment with recycled dialysis equipment, and ensure that patients cannot be turned away from treatment if they decide not to accept treatment with recycled equipment.

Dialysis is a critical life-sustaining treatment required to remove toxins, salt, and water that accumulate in the blood of a person whose kidneys have ceased to function because of end-stage renal disease [ESRD]. Treatment requires the patient to be connected three times a week for 4 hours to a dialysis machine which filters out these life-threatening toxins. The only alternative to dialysis is kidney transplantation. Medicare funds 80 percent of dialysis costs.

Life-saving dialysis has been practiced for more than 20 years and today is provided by Medicare at a cost of over $1.5 billion to more than 78,000 patients in over 1,200 dialysis clinics across the Nation. More than half (48,000) of the patients are 55 and older; over 26 percent (27,000) are 65 and older; and 34 percent of new patients annually are 65 and older.

A growing practice in dialysis clinics in recent years has been the reuse of certain dialysis devices that are labled by manufacturers for "single use only." Reused most often are the plastic cylindrical dialyzer blood filter and the plastic blood lines through which the patient's blood flows to and from the dialyzer. Other equipment subjected to reuse includes the transducer filter and dialyzer caps.

All dialysis clinics are reimbursed by Medicare at the same rate, regardless of whether or not they reuse disposables. Hospital based clinics received $131 per dialysis treatment, and free-standing facilities are reimbursed $127 per treatment. A new disposable dialyzer costs about $10 and is the most expensive disposable device used in dialysis. Blood lines cost about $3. Reprocessing of these two disposables saves about half to one-third the cost of buying new ones each time they are reused. Figures generated by the Office of Technology Assessment indicated that reuse of the dialyzers alone may result in excess profits of $80 million or more each year.

Some dialysis clinicians believe that reuse of the dialyzer combats "first use syndrome", an allergic reaction to a new dialyzer. The FDA determined that only about 3.3 such reactions per 1,000 patients occurred over a 2 year period. The FDA also found, however, that in most of these cases, the dialysis facility failed to follow the manu-

facturer's instructions for properly preparing the dialyzer for patient use in order to avoid any negative reaction to the new dialyzer. Clinicians also have found that certain types of membranes used in dialyzers may cause allergic reactions, a problem often solved by switching patients to a dialyzer with a different type of membrane.

More than 60 percent of the dialysis clinics are reprocessing and reusing disposable devices as many as 20 or 30 times by flushing out and disinfecting them with a solution most often consisting of formaldehyde and water. Formaldehyde is known to cause cancer, liver damage and destruction of red blood cells. Research has shown that formaldehyde can cause the formation of antibodies in the blood that may encourage rejection of a kidney transplant. In addition, formaldehyde reportedly causes allergic reactions, and central nervous system and reproductive disorders.

Patients who are treated with reused disposable dialysis devices also face the risk of their devices—and therefore their blood—being contaminated with virulent strains of bacteria if reused equipment is not properly sterilized.

The Senate Aging Committee uncovered these facts through a 4 month, indepth investigation into the issues of reuse of disposable kidney dialysis devices. During this investigation, interviews were conducted with scientists, clinicians, and patients involved in hemodialysis study, practice, and treatment. Interviews were also conducted with key personnel at the Food and Drug Administration, the Health Care Financing Administration, and the National Institutes of Health. Published research papers were reviewed, as well as thousands of internal records from these three Federal agencies.

On March 6, the committee held a hearing on reuse of disposable dialysis devices to examine our findings and receive testimony from renal physicians and dialysis patients, as well as from HCFA and the FDA.

Four major problems associated with reusing disposable dialysis devices were brought to light through the investigation and hearing: First, proper clinical trials have yet to be conducted to conclusively determine the health effects of reusing disposable devices, second, the FDA and HCFA have failed to develop standards to ensure safe reuse procedures, third, dialysis patients who receive dialysis treatment with reused equipment are usually not informed of the potential risks associated with reuse, and fourth, dialysis patients who know the potential risks and request not to be treated with recycled equipment are often denied any choice in the matter and are, in effect, forced to submit to treatment with reused equipment.

This committee plans to address each of these problems. The solutions to the first two problems will take time. Clinical evaluations and safe guidelines must be developed carefully and with a close eye to the long-range effects on patient safety and health. The last two problems, however, can and should be addressed immediately.

It is unconscionable, Mr. President, that a health care program that these patients depend on for their lives is turned into a macabre game with hidden risks and quiet coersion. Seldom are patients made aware of the potential risks of reuse. Seldom are patients given the freedom to decide whether or not to receive treatment with reused disposable dialysis devices. And often dialysis patients are intimidated and coerced into being treated with reused disposable dialysis devices.

For these reasons, the legislation I am introducing today will require, as a condition of participation in the Medicare ESRD Program, that facilities that reuse dialysis equipment inform patients in writing of the potential risks and benefits of reuse, that patient be given the freedom to choose whether or not they want reuse, and that Medicare dialysis clinics cannot refuse to treat a patient with new equipment if the patient decides against reuse.

This bill will not result in additional costs to either the Federal Government or dialysis providers. Currently, the Medicare Program reimburses dialysis providers at the same rate, regardless of whether or not they reuse disposable dialysis devices. Neither will this legislation add a new and burdensome paperwork requirement to the ESRD Program. Currently, facilities are required to receive the patient's written consent before administering treatment in the ESRD program. These written consent forms are kept on file and reviewed by the appropriate State survey agencies in determining whether facilities meet the conditions of Medicare participation.

This legislation also does not seek to bring a halt to reuse of disposable dialysis devices. Dialysis with reused dialysis equipment may indeed be safe and effective under certain circumstances, but the guidelines and procedures to ensure safe and effective dialysis need to be developed and enforced.

Partly as a result of the committee's work in this area, the National Center for Health Services Research is currently conducting an assessment of the safety and efficacy of reuse.

Our bill will do three things. It will require, first, that patients be fully informed of all risks and hazards of reuse. Second, that they be given the right to choose reuse or not to reuse. Third, it will forbid clinics from denying treatment to those patients who elect not to reuse.

Again, I stress that Medicare pays on the basis as if nonreuse were a current practice. So the Medicare end stage renal disease program, although it has been a very successful program particularly in providing life-sustaining treatment to a very vulnerable group of Americans, is itself I think at some risk.

This legislation is a necessary step forward in restoring safety and confidence for those whose lives depend every day, at least every other day of their lives, upon dialysis.

This bill will clearly spell out the rights of dialysis patients regarding reuse and will ensure that those rights are protected under the law. It addresses the most important issue at hand—patient protection and safety—which must be ensured immediately, while the other important steps are being taken. I am very pleased that this bill is supported by the National Association of Patients on Hemodialysis and Transplantation. National Medical Care, the largest single dialysis provider in the country, also supports the elements of this legislation. I look forward to working with both dialysis patients and providers as we push for a speedy assessment of the safety, efficacy, and patient outcomes associated with reuse, the development of safe reuse procedures, and appropriate Medicare reimbursement for dialysis treatment.

The Medicare end stage renal disease program has been tremendously successful for more than a decade in providing life sustaining treatment to a very vulnerable group of Americans. This legislation can help return the ESRD program to a program known for its safety and efficacy, and trusted by patients whose lives depend on it. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be reprinted at this point.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF REPROCESSED DIALYSIS DEVICES AND SUPPLIES.

(a) IN GENERAL.—Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding at the end thereof the following new subsection:

"(h)(1) No provider or facility may provide or utilize reprocessed dialysis devices or supplies for the dialysis of an individual entitled to benefits under this title unless the provider or facility has obtained the informed, written consent of the individual in accordance with paragraph (2).

"(2)(A) A provider or facility that proposes to provide or utilize any reprocessed dialysis devices or supplies for the dialysis of an individual entitled to benefits under

this title shall furnish the individual or a legal guardian with a written document—

"(i) informing the individual or guardian of—

"(I) the specific reprocessed dialysis devices and supplies the provider or facility proposes to provide or utilize,

"(II) the specific substances and materials to be utilized in reprocessing each such device or supply, and

"(III) the potential and known risks and benefits of utilizing each such device or supply (including, but not limited to, any increased risk of infection and any harmful long-term effects that the substances and materials utilized in reprocessing the device or supply may have);

"(ii) providing assurances to the individual or guardian that the provider or facility—

"(I) will not penalize the individual in any way for refusal to consent to the provision or utilization of reprocessed dialysis devices or supplies for the dialysis of the individual, and

"(II) will not refuse to provide or utilize dialysis devices and supplies that have not been reprocessed for the dialysis of the individual; and

"(iii) informing the individual or guardian of the grievance mechanisms available to him or her under this title.

"(B) The consent of an individual or legal guardian shall be evidenced by his or her signature on a copy of the document furnished to the individual pursuant to subparagraph (A). Such signature shall be in addition to any signature indicating that consent is given for the individual to enter dialysis.

"(C) An individual or legal guardian may terminate consent given in accordance with subparagraph (A) by notifying a provider or facility in writing that the consent is terminated. A termination of consent shall be effective on the date on which the provider or facility receives written notice of the termination.

"(3)(A) A provider or facility shall allow the Secretary (or a State agency designated by the Secretary) full access to all records of the provider or facility relating to the provision or utilization of reprocessed dialysis devices or supplies for the dialysis of individuals entitled to benefits under this title, including any written consent forms obtained pursuant to paragraph (2).

"(B) If the Secretary determines that a provider or facility has failed to comply with any of the requirements of this subsection, the Secretary may terminate or withhold certification of the provider or facility for purposes of payment for services, devices, or supplies furnished to individuals entitled to benefits under this title.

"(4) For purposes of this subsection, the term 'reprocessed dialysis device or supply' shall include, but is not limited to, any hemodialyzer, blood line, transducer filter, and dialyzer cap that has been used in dialysis and processed for reuse in dialysis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 180 days after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, I thank my colleagues.

RECOGNITION OF SENATOR HART

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado [Mr. HART] is recognized for a period not to exceed 5 minutes.

Mr. HART. Mr. President, I thank the Chair.

THE FARM CRISIS AND LATIN AMERICAN DEBT

Mr. HART. Mr. President, there was a time in this country when the political leadership of both political parties would discuss domestic economics and domestic affairs in one forum, and then go to another and discuss international and foreign policy.

For example, the Latin American debt crisis is, like tornado season, once again upon us. The newspapers are filled with accounts of the problems which face Mexico. Once again, a relief package will likely be proposed that tides the banks through the storm, but leaves Mexico even deeper in debt.

Mr. President, we cannot continue to treat the Latin American debt crisis in this haphazard way. The debt crisis is much more than a financial crisis. It is a foreign policy crisis. It is a political crisis. It is a human crisis. And today, we must all understand it is a farm crisis, as far as the people of this country are concerned.

American farmers know they are not getting a fair price for what they are producing. They also understand that lost exports mean lost livelihoods. American farmers know that lost exports make their own debt crisis even worse. Well, here is the point: the Latin American debt crisis means lost exports for America's farmers.

The debt crisis forces country after country, from Argentina to Mexico, to cut purchases of American wheat, corn, and soybeans. It forces them to increase their own agricultural exports. They must increase their exports and cut their imports to make interest payments on their debts. Even this is not enough in many cases and—as we are seeing in Mexico—the only solution is to slide further into debt.

In the wake of the debt crisis, America's farm exports to Latin America have fallen by one-third. This is more than $2.5 billion in lost sales. As a recent Joint Economic Committee study states, "by 1985, the Latin American debt crisis was nearly five times as damaging to U.S. farmers as reduced sales to the Soviet Union." In 1979, I said the grain embargo was a bad idea. I say a debt-imposed grain embargo is no less a threat to rural America today.

□ 1040

The debt crisis cuts American farm exports not just to Latin America but all over the globe. As Latin American countries are forced to export more, they contribute to world oversupply. This reduces U.S. exports, and the prices received by America's farmers. Total U.S. farm exports have dropped by a quarter since 1980. This, and the collapse in commodity prices, have led to a 30-percent drop in export revenues since 1981. The Latin American debt crisis is not to blame for all of this, but it has made a bad situation much worse.

We need to solve the debt crisis directly. We also must extend the principles and rules of the international trading system to agricultural trade. Opening markets in Europe and Japan, and solving the debt crisis, will go a long way toward helping our farmers.

The laissez-faire attitude of this administration has been both unfair and insufficient. The "Baker Plan" for solving the debt crisis represents some recognition that we need to do something on the international debt crisis. But that plan is short on ideas, imagination, money, and leadership.

Mr. President, debt, unlike tornados and taxes, is not inevitable. We can solve the Latin American debt crisis, just as we can solve our farm economy's desperate plight.

Long-term solutions will be required, and all parties must contribute. The borrowing countries must stop capital flight and engage in responsible economic policies. The banks must accept that some of these loans simply cannot be repaid: others need to be restructured rather than rolled over. Some losses are inevitable. The international lending agencies must show more flexibility and coordinate an international solution.

America's security, prosperity, and values demand we find solutions to both the farm crisis and the debt crisis. We must wait no longer. In farm country as in Latin America, hope itself is on the line.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1050

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR SASSER

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized for not to exceed 5 minutes.

Mr. SASSER. I thank the Chair.

DESTRUCTION OF SURPLUS CHEMICAL WEAPONS

Mr. SASSER. Mr. President, the Senate should be made aware of pro-

posals now under consideration by the Army for destruction of surplus chemical weapons. Indeed, Mr. President, I think it is important that the country be made aware of these proposals.

Many of these chemical weapons that are slated for destruction were manufactured during World War II and are more than 40 years old. Those of the most recent vintage were manufactured as late as 1968. Many of these chemical weapons are leaking, some are deteriorating, and by law, the stockpile must be destroyed by September 30, 1994.

These chemical munitions contain some of the most noxious and poisonous substances in existence known to humankind. They are comprised of persistent and nonpersistent nerve gases and nonpersistent mustard gas. All nerve gases destroy the enzymes in the body which drive the nervous system. In amounts about the size of a pinhead, these nerve gases can kill a human being in anywhere from 2 to 30 minutes. Death from these substances is particularly grotesque.

These munitions are stored across the United States in eight locations—at Aberdeen, MD; Richmond, KY; Anniston, AL; Newport, IN; Pine Bluff, AR; Pueblo, CO; Tooele, UT; and Umatilla, OR. the Army has proposed three alternatives for disposing of these chemical weapons.

The first alternative would create a national disposal center—one disposal center—in Tooele, UT. Chemical weapons from all across the country would be shipped by rail to Tooele. The Army estimates it would take 3 to 4 years of continuous movement by rail to transport the material from all across the country, as indicated on the map behind me, to Tooele, UT.

The second alternative would require two regional disposal centers—one in Tooele and the other in Anniston, AL. Again, this would involve the shipment of these toxic chemical munitions by rail, requiring 3 to 4 years of constant transport.

The last alternative calls for the construction of a disposal facility at each of the eight storage locations. Then we would have onsite destruction of poisonous gas, which would require no rail transportation across the United States.

Now, these nerve gas agents that would be transported by rail are colorless, odorless, and tasteless, and largely undetectable by human senses. Indeed, specialized equipment is needed to detect them. Mustard gas is familiar to anyone acquainted with the history of World War I. It is a crude chemical that kills by blistering any part of the body it contacts, including the lungs, and is a known cancer-causing agent.

In World War I, mustard gas caused casualties in the hundreds of thousands and men died long after that war as a result of the damage done to their lungs and respiratory systems.

After consideration of the facts, I have decided to strongly oppose any plans by the Army to transport these deadly substances across the heartland of the United States.

I have written to the Secretary of the Army, John Marsh, and to the Secretary of Defense, Caspar Weinberger, detailing my opposition to moving these inherently dangerous substances by rail across this country.

My reasons are based on both common sense and expert studies.

The National Academy of Sciences, in a 1984 study, recommended destruction of the stockpile by incineration. This process has been carefully tested and has been proven effective on the chemical agents needed for destruction.

The Academy of Sciences cited the obvious advantages of incineration—one, that transportation of these highly toxic substances across the country would not be needed; and second, the process could be fully controlled.

The Army itself, in its report to the Congress on the disposal of chemical munitions, clearly stated that transportation to either a regional or national location for destruction of the chemical agents poses threats to public health and safety.

I might add that with increasing concerns about terrorism and terrorist activities, I share with the National Academy great concerns about the transportation of these munitions across this country in slow moving trains, traveling at a speed of 15 miles an hour, over well-publicized routes.

□ 1100

These trains would be an open invitation to an attack by a terrorist, and should there be an accident or should there be a terrorist problem the results could be absolutely catastrophic. It could be an American Bhopal. It could result in the death of hundreds of our citizens, the contamination of crops, the destruction of livestock and the contamination of water supplies. The toxicity of these chemical weapons means that even the slightest accident during transportation by rail could result in very deadly consequences. So I think in considering the alternatives, the safety of our citizens should be the primary criteria. The cost for each of these three plans is approximately the same. The differences are not substantial enough to endanger populations by the movement of these deadly toxins.

So the choice for the Army, I submit, is clear. It can choose the safe, technologically proven method of incineration on site or it can make a leap into the unknown and dangerous world of off site transportation where the risk of accident or terrorism along rail lines is greatly increased. I think that plans involving transportation are both imprudent and foolhardy.

So I urge my colleagues to join me in voicing their concern with proposals to transport these hazardous chemicals overland by rail.

Mr. President, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Pending:

Grassley Amendment No. 2070, to deny foreign tax credits attributable to activities conducted in foreign countries which repeatedly provide support for acts of international terrorism.

Mr. DOLE. Mr. President, we are now back on the Tax Reform Act, H.R. 3838, and I assume the managers will be here or are on their way. The pending amendment is the Grassley amendment. I know the managers, Senators PACKWOOD and LONG, would like to complete action on the bill today or tomorrow. As I also indicated, if we could do that, there would not be votes on Monday. But if not, the chairman of the committee, Senator PACKWOOD, has indicated there would be votes on Monday on the tax bill. So perhaps when we get a little further along today, maybe 4 or 5 o'clock or 8 or 9 o'clock this evening, we will be in a position to advise Members what they can expect for the remainder of the week and on Monday. But I urge my colleagues on both sides of the aisle who have amendments to be prepared to bring them up. Let us vote, and we can complete action on this historic bill, sooner than nearly anyone anticipated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1120

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SYMMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1130

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. I do not seek any further recognition. I just called off the quorum. I think the Senator from Iowa is ready to go on his amendment.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2070

Mr. GRASSLEY. Mr. President, first of all I ask unanimous consent to add the Senator from Georgia [Mr. MATTINGLY], as a consponsor of the amendment I filed last night and now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, this amendment which I filed last night is an amendment to the tax reform bill, and it is offered on behalf of myself and my distinguished colleagues, besides Senator MATTINGLY just mentioned, Senators LAUTENBERG, PROXMIRE, DENTON, HARKIN, and DOLE.

This amendment would deny tax advantages to companies for their operations in countries where those countries actively support terrorists.

The objective of this amendment is to require our tax policy to conform with our foreign policy of combating terrorism.

We have introduced similar legislation in the past. Presently, the Secretary of State has designated the following countries as terrorist countries: Libya, Syria, Iran, Cuba, and South Yemen. The designations of these five countries has been done by the Secretary of State under the Export Administration Act.

Mr. President, under current United States tax laws, United States corporations, of course, are permitted to credit, on a dollar-for-dollar basis, foreign taxes, such as taxes paid in Libya, as an example. They are allowed this credit against U.S. taxes, and that would be against U.S. taxes that would otherwise be due on overseas earnings. The intent of these credits is, of course, to prevent double taxation of those who work or invest abroad. The other cosponsors of this amendment and I do not question the overall positive effect of this tax policy, but, of course, we do seriously question whether or not these tax benefits should be available to those whose activities provide bread and butter for state-sponsored terrorism.

Mr. President, a glaring example of the unintended effect of these tax credits can be seen in the country of Libya where these incentives benefit terrorists and they benefit terrorists more than they benefit the American citizens or companies that are there. A number of American companies have been specifically exempted from President Reagan's economic sanctions that were imposed against Libya in January.

Our State Department asserts that the companies were exempted in order to prevent Libya from gaining a $1 billion windfall from company assets that would be left behind under that order. However, it is important to recognize that many of these assets have already been effectively nationalized by Libya. Libya is reported to already officially own 51 percent of a number of American operations and taxes all but 5 percent of the leftover profit.

Last year these taxes amounted to $2 billion for Qadhafi and his state-sponsored terrorism. Consequently, the greatest motivation for American firms to remain in Libya is to gain huge tax credits for taxes paid to the Libyan Government.

This amendment is drafted, and very carefully drafted, so that it will not force so-called fire sales upon those corporations that it is intended to impact against. The Treasury can continue to issue licenses, even in Libya for that matter, for the purpose of winding down the operations and getting out of the country.

Mr. President, if the economic sanctions that were imposed against Libya in January are to be effective, there can be no exemptions to that order. It is no secret that Libya's economy and its ability to subsidize terrorism are totally dependent upon revenues that are largely generated by these American firms.

In order for us to destroy Libya's terrorist support capabilities and to encourage a rational Libyan foreign policy, Libya's oil production must be strictly curtailed. This cannot be done as long as there are American corporations pumping Libyan crude and providing economic support for the Libyan Government.

Mr. President, how can we expect our allies to participate in economic sanctions when we allow American companies and individuals to prop up Qadhafi's regime? We cannot permit some Americans to profit from revenues used to kill and terrify other Americans. And that is exactly what present tax law allows.

So, that is why I urge my colleagues to join me and those Senators I have already mentioned—Senators LAUTENBERG, PROXMIRE, DENTON, HARKIN, DOLE, and MATTINGLY—in this very bipartisan effort to kick the economic crutches out from under terrorism and the cowardly nations that support terrorists. A vote for this amendment is a strong and clear vote against worldwide terrorism, and that is a step that we ought to take right now.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Today I join with Senator GRASSLEY and Senator DENTON in offering this amendment to deny foreign tax credits to companies operating in countries that actively support terrorism. This amendment is similar to S. 2429, legislation that Senator GRASSLEY and I introduced as the Anti-Terrorism Tax Act on May 8, 1986, and it will save tax dollars, not spend them.

Our Tax Code permits U.S. corporations that do business in foreign countries to credit the taxes they pay to foreign governments against their U.S. tax bill. The purpose of this foreign tax credit is to prevent corporations that operate abroad, and those that invest in them, from being subject to double taxation. That principle is not at issue here. The issue here is whether American taxpayers should subsidize, even indirectly, governments that support and sponsor terrorism. I say they should not.

To prevent that subsidy, and to encourage companies to leave countries that sponsor terror, this amendment would deny the foreign tax credit to corporations that operate in countries that have exhibited a pattern of support for terror.

Governments that support terror are specifically defined by reference to the terrorist list that is kept by the Secretary of State pursuant to the requirements of the Export Administration Act. Right now, there are five countries on that list—Libya, Syria, Iran, South Yemen, and Cuba. We prohibit tax credits if countries participate in an international boycott; why should we do less with countries that support terrorism?

This legislation will deny the benefit of American tax dollars to countries who practice terror, dollars that often provide the financial support for a regime dedicated to terror. Libya is a case in point. Last year, Qadhafi garnered $2 billion in tax revenue from the taxes of American companies operating in Libya. Two billion dollars used for the killing of innocent Americans and others around the globe. Two bil-

lion to train and equip those who blow up discotheques and airplanes.

If we are to destroy Libya's ability to forment terror around the world, we must undercut the oil revenues that keep her afloat by making it less profitable for American companies to pump oil in Libya. How can we expect the cooperation of our allies in our program to isolate Libya economically and diplomatically if we ourselves provide tax benefits to companies operating there.

When we introduced S. 2429, the Anti-Terrorism Tax Act, it required that the foreign tax credit be denied to companies operating in terrorist countries immediately upon enactment of the bill. For companies operating in Libya, who have been under orders to leave the country for some time, this is not unfair.

However, Mr. President, to give companies now in Syria, South Yemen, Iran, and Cuba time to leave without selling their assets at bargain basement prices, we have provided some leeway in our amendment. It permits companies to receive the foreign tax credit during the time it takes to sell or divest themselves of assets in terrorist countries, provided the Secretary of the Treasury grants such an exception. It will also provide time for companies operating in countries put on the terrorist list in the future to adjust to losing the foreign tax credit.

Mr. President, the Senate Finance Committee has already voted to deny tax benefits to Americans who continue to work in Libya in defiance of President Reagan's orders. We should do the same for corporations who operate in terrorist countries.

I urge my colleagues to adopt this amendment to send a message that the U.S. Government will no longer credit taxes paid to terrorists against taxes owed to the U.S. Treasury.

□ 1150

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I wonder if I might be able to ask just one or two questions of my friend and colleague.

I want to commend him for offering this amendment.

As to what the effects of the amendment would be, what countries are covered, would it preclude these countries from being able to take tax credits?

Mr. GRASSLEY. The question is the countries?

Mr. D'AMATO. Yes.

Mr. GRASSLEY. Five countries—Libya, Syria, Iran, Cuba, and South Yemen are the countries that are on the terrorist list as named by the Secretary of State under the Export Administration Act.

Mr. D'AMATO. Are there deferral provisions? If these countries have deferral provisions, would that continue so that, in effect, those countries doing business with Libya and Iran would still be able to avoid the payment of taxes?

Mr. GRASSLEY. Yes, they will. We felt that our amendment would be prospective and in those instances where deferrals were already a pattern we were not affecting those.

Mr. D'AMATO. Does it affect the payment of taxes as it relates to these countries in any way? Are any of the American corporations that the Senator knows of doing business, let us say, with Libya, precluded from continuing their present tax policy as a result of this?

Mr. GRASSLEY. The language of the amendment is prospective for June 30 of this year. So the answer to the question is what has gone on, what tax laws those companies can already take advantage of, they are able to take advantage of. We felt that the best policy was to affect for the future, to see that after the June 30 date came that then there was no more of the wrong of the past that could be continued forward.

Mr. D'AMATO. If I might suggest——

Mr. GRASSLEY. Let me say also that I personally believe in some instances that more should have been done, but I also believe that my amendment is the cleanest way to do it and that we would be doing it in a way to establish good policy for the future without trying to bring up too much of the past, even though, as I suggested, maybe there are some worthwhile things that ought to be looked at and maybe ought to be considered.

Mr. D'AMATO. I have a concern, and I wonder if the Senator could address this, that as a result of there being no vehicle by which they are no longer allowed to continue the tax credits but they can defer payments, which is what in essence will happen, they simply will not take money out of those countries but, rather, will be encouraged to continue to invest and reinvest in those same countries where we are looking to see that Americans do not subsidize those nations that are waging terrorist aggressions. While there may be some good intentions in this, what we will be continuing or encouraging is additional investment because these companies will not be able to take their moneys out, they will not take them out, and the deferral policies that they have, in essence, will encourage them to continue to invest and reinvest.

Does the Senator share a concern with me on that?

Mr. GRASSLEY. I share a concern. It is a fact under my amendment that money that is not brought back into this country obviously will not be taxed. I expressed a personal feeling as to why the legislation was otherwise drawn. But also I think the Senator ought to consider what I consider the June 30 deadline which has been put on these companies by the Treasury Department to be an otherwise good faith effort that they are trying to meet the spirit of that.

What I am doing in this amendment and what I think the Senator from New York is leading to, is that we want to have congressional action specifically directed toward tax policy in order to bring this policy into conformity with our national interests.

I guess maybe I feel you cannot cry over spilled milk, but we can look to the future and establish this good policy so that the mistakes of the past, and you have to admit that even the Congress, by leaving this amendment the way it is, will leave room for the administration to do this, so that there is not, through the tax credit, a subsidy of the American taxpayer of terrorism around the world of any future country so designated.

Mr. D'AMATO. Mr. President, it is for this reason, the very same reason that there is a gaping hole—and I applaud my colleague for having attempted to address this—that it will continue the subsidization, in effect, by U.S. dollars of those nations who are sponsoring nothing less than war against this Nation. Mr. President, I think it has been readily conceded that those nations that engage in terrorist activities against the United States and its people are really fighting an undeclared war against this Nation. Certainly, it does not make good sense under any standards to, therefore, be subsidizing these nations. I feel compelled to offer an amendment, Mr. President.

AMENDMENT NO. 2071 TO AMENDMENT NO. 2070

(Purpose: To deny foreign tax credits, and income tax deferred on income, attributable to activities conducted in foreign countries with which the United States does not conduct diplomatic relations or which repeatedly provide support for acts of international terrorism)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 2071 to amendment numbered 2070.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language to be inserted, insert the following:

SEC. . DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

(a) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (1) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DENIAL OF FOREIGN TAX CREDIT, ETC. WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) during the taxable year to any country to which this subsection applies, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income for such taxable year from sources within any country so identified.

"(2) COUNTRIES TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any foreign country—

"(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

"(ii) with respect to which the United States has severed diplomatic relations,

"(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

"(iv) which the Secretary of State notifies the Congress under paragraph (3) is a foreign country which repeatedly provides support for acts of international terrorism.

"(B) PERIOD FOR WHICH SUBSECTION APPLIES.—This subsection shall apply to any foreign country described in subparagraph (A) during the period—

"(i) beginning on the later of—

"(I) January 1, 1987, or

"(II) 6 months after such country becomes a country described in subparagraph (A), and

"(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

"(3) NOTIFICATION OF NATIONS SUPPORTING TERRORISM.—The Secretary of State shall at least once each year notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any foreign country which the Secretary of State has determined repeatedly provided support for acts of international terrorism.

"(4) PART-YEAR RULE.—If this subsection applies to any foreign country for any period less than an entire taxable year, paragraph (1) shall be applied by taking into account only that proportion of the taxes and income described in paragraph (1) for the taxable year as the portion of the taxable year which includes such period bears to the entire taxable year."

(b) DENIAL OF DEFERRAL OF INCOME.—

(1) GENERAL RULE.—Section 952(a) (defining subpart F income) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and," and by inserting immediately after paragraph (4) the following new paragraph:

"(5) the income of such corporation derived from any foreign country during any period during which section 904(i) applies to such foreign country."

(2) INCOME DERIVED FROM FOREIGN COUNTRY.—Section 952 (defining subpart F income) is amended by added at the end thereof the following new subsection:

"(e) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subsection (a)(5), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 904(i) applies if such income was, without regard to such entities, derived from such country."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

Mr. D'AMATO. Let me attempt to share certain thoughts.

The substitute amendment solves a technical problem with the initial amendment. It imposes current U.S. tax on income that U.S.-controlled foreign corporations earn in these countries.

□ 1200

That is as it should be, Mr. President. It says if you are earning money in this country, you are going to pay taxes. Without this technical solution, U.S. companies that operate in these countries could continue to avoid U.S. taxes simply by putting their operations into foreign corporations. Repealing the foreign tax credit makes no difference to those taxpayers unless we also remove the privilege of deferral.

That is what I was attempting to establish with my good friend, the Senator from Iowa. As long as they have the privilege of deferral, they will not pay taxes, they will continue to defer those taxes.

Mr. President, we are not achieving the purpose that I think we want to. In my amendment, we are sending that signal to the American people, that we are no longer going to subsidize foreign nations who are waging an undeclared war against us. That is what I am concerned about.

Mr. GRASSLEY. Would the Senator yield?

Mr. D'AMATO. If I might, I shall yield in a moment. My second-degree amendment also covers 11 countries: the first 5 covered by the initial amendment as well as Albania, Angola, Cambodia, Mongolia, North Korea, and Vietnam. Countries that we do not recognize are Albania, Angola, and North Korea. Countries we have severed relations with are Cambodia, Cuba, Libya, Iran, South Yemen, and Vietnam. Thus, my amendment covers three categories of nations that we do not recognize, nations that we have cut off relations with and nations which sponsor agents of international terrorism.

By the way, Mr. President, these are those listed by the Department of State. We have not singled out nations. They are covered by the Department of State.

If my friend from Iowa has any questions in relation to that, I shall be glad to attempt to answer.

Mr. GRASSLEY. Will the Senator yield?

Mr. D'AMATO. Certainly.

Mr. GRASSLEY. Will the Senator tell us where the Department of State lists those three separate categories and the countries that are in each?

Mr. D'AMATO. The Office of Protocol, I am informed, maintains these categories of countries.

Mr. GRASSLEY. Also, not to detract from anything that I think the Senator and I have agreed that my amendment specifically does, but for clarification: remember that the purpose of my amendment is that the American taxpayers will not, through tax credits, subsidize terrorism with money that would go directly to those governments by those companies. My amendment does that, so there is no subsidy.

The Senator raises the question about money that would be not coming into this country. He should understand that unless the money comes into this country, then there is no American taxpayer subsidization of terrorism. Would the Senator agree with that?

Mr. D'AMATO. To the extent that there is no deduction as a result of the tax credits. However, what the amendment, the first-degree amendment, would encourage is businesses to stop or to continue to reinvest so that they do not have to pay taxes on these moneys. So, absent the deferral, unless we knock out the deferral provision, what we are going to have is companies continuing to do business and thus to assist economically those nations, those very nations who are waging the war of terrorism against this Nation.

It really is halfhearted, a toothless tiger. What we are saying is, continue doing business there; yes, you are not going to be able to take out your profits and therefore, you will not get a foreign tax credit, but you will be encourage. What we are doing is indirectly encouraging nations to increase business activity because of their not being able to take their money out of that nation.

Mr. GRASSLEY. On one other point, if the Senator will continue to yield for a question.

Mr. D'AMATO. Certainly.

Mr. GRASSLEY. That is the rationale behind the Senator's position and hence this amendment, I believe, that because we do not recognize a certain country and that country is not involved with promoting terrorism, what

is the rationale for not allowing the foreign tax credit?

Mr. D'AMATO. What we are really saying by not recognizing is that these are illegitimate governments who do not represent their people. This has been established by the Department of State. We have no representation with them, and I do not believe we should be supporting them, certainly not economically. That is exactly what we are doing. We have a tax policy which is encouraging their support.

We have not taken any country; we have taken these classifications. I think it makes sense.

I think more importantly, what my amendment does is encourage U.S. business to stop economically supporting countries mentioned in this amendment. It will do it by making them pay taxes now, they or their subsidiaries in those countries and will deny them any tax credits or shelter from these taxes. I think that is important. If we continue that deferral that is contained in the underlying amendment, that is not the case.

What we are saying is, we are not going to encourage new companies to come in. New companies, for the most part, are not going to go into Libya in any event; new corporations are not going to go into Iran in any event; new compaies are not going into Angola in any event. So I find it to be that an amendment in terms of "foreign" sounds good, but substantively, if anything, it will encourage the redeployment of additional assets in that country. Because now the oil companies doing business in Libya, if they take their money out, no longer get their foreign tax credit, will continue to plow back moneys in Libya. That is what I am concerned about.

(Mr. EAST assumed the Chair.)

Mr. GRASSLEY. Will the Senator form New York yield?

Mr. D'AMATO. Surely, Mr. President.

Mr. GRASSLEY. Just one last question or response to a question. As I compare the two amendments, there is no substantive disagreement between the Senator's position and my position: We both feel the American taxpayers should not subsidize companies, the government of which in turn give support to terrorism.

Mr. D'AMATO. That is correct.

I yield the floor, Mr. President.

● Mrs. HAWKINS. Mr. President, as a cosponsor of the amendment offered by Senator D'AMATO to eliminate foreign tax credits and foreign income deferrals for activities of American corporations in foreign countries that we do not recognize, I rise to urse my colleagues to vote in favor of the D'Amato amendment.

Mr. President, I believe that it is time that we eliminate unjustified tax breaks that really serve as subsidies to governments that the United States does not recognize or are demonstrably hostile to the United States. The countries that are subject to the provisions of this amendment are countries that we hold in lower regard than the Soviet Union, the countries of Eastern Europe, or even Nicaragua. These countries include Albania, Angola, Cambodia, Cuba, Iran, Libya, Mongolia, North Korea, Southern Yemen, Syria, and Vietnam. They are literally the dregs of the international community. They are so opposed to everything the United States stands for in the international community and so lacking in claims to legitimacy that the United States does not even extend to them the most basic level of diplomatic recognition. I fail to understand why the United States has a tax policy that recognizes taxes levied against U.S. corporations by countries we do not recognize diplomatically for the purposes of tax credits and deferrals. This is a contradiction between our tax policy and diplomatic policy that defies justification.

Presently, if any American corporate enterprise pays taxes to a foreign country, the corporation receives an equal offset in its domestic tax liability. Unfortunately, this policy applies to friendly and unfriendly countries alike. I believe it is wrong to apply this policy of foreign tax credits on such an indiscriminate basis. The amendment before us would ensure that corporations would not be allowed to take advantage of the foreign tax credit for activities conducted in countries which we do not recognize, have severed relations with, or which are officially considered sponsors of terrorism, currently the countries I listed earlier. Countries could be added or withdrawn from the list of proscribed countries according to their behavior. American corporations would be given 6 months to adjust their business should the United States sever its relations with a foreign country or add a country to the list of those involved in terrorism.

In order to make the foreign tax credit limitation truly effective, it is also necessary to eliminate a complementary tax preference. Currently, corporate income earned in foreign countries is not subject to U.S. tax until that foreign income is transferred to the United States. Including this provision in the amendment will insure that companies continue to shelter their foreign income by never transferring the income to the United States.

Mr. President, I believe that this amendment serves to eliminate the glaring inconsistency that currently exists between our tax policy and our foreign policy. It will make it clear that we are intent on furthering our foreign policy interests. I urge my colleagues to support this amendment.●

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I rise in opposition to the amendment, the Grassley amendment and the D'Amato amendment. I applaud what I perceive to be the purpose of the Senator from Iowa and the Senator from New York.

I do not think there is a single person in the Senate who would oppose their purpose, to discourage by any means possible the support of terrorists anywhere in the world. I think most Members of the Senate would applaud their efforts to find additional instruments with which to oppose terrorists. But I oppose their amendments on several grounds.

One is the grounds which have been so often stated by the distinguished chairman of the Committee on Finance: That the purpose of this bill is to simplify the Tax Code; to strip the Tax Code of all of those interesting, intriguing, fascinating different kinds of provisions that relate to specific problems that either the United States has or individuals within the United States have, or corporations doing business within the United States have.

In other words, the effort of this bill, the underlying purpose of this bill is to strip the Tax Code of these special provisions to deal with different kinds of problems that are not necessarily related to the revenues of the United States of America.

This amendment, as interesting as it may be, has very little relation to the revenues of the Treasury. This is an amendment which has a purpose which might broadly be called a foreign policy objective. It is trying to discourage Americans from investing overseas in certain areas. In the Grassley amendment, there is a rather more limited area in which investment would be discouraged. In the D'Amato amendment, as I understand it, there would be a broader area of discouragement.

What is going to be the effect of that? Well, Mr. President, let us assume that it works exactly as the authors of these various amendments propose to have it work. Clearly, American companies will have to crank into their calculations the fact that they will not get tax credits if they do business in those areas.

□ 1210

But what about other places? Let us assume it is in the interest of the United States of America, it is a policy of the United States of America to promote economic development in Lower Slobovia, and Lower Slobovia is not on anybody's prohibited list; Lower Slobovia is not suspected of sponsoring terrorism; Lower Slobovia is a law-abiding, struggling country

that the United States wants to see progress. But the American businessman who may consider that he is going to establish a subsidiary, a plant, a new operation in Lower Slobovia may say, "Well, yes; I know the Department of State encourages us to go out there, I know the President wants us to develop that area, but if I do, they may be on a list someday. And that is just the extra hazard that I am not willing to undertake, that is just the extra chance that I am not going to undertake and, therefore, let's forget about any kind of economic development in Lower Slobovia."

Now, what is the effect of that on the taxpayers of the United States? It has been argued that this in some way or another will relieve taxpayers of some economic burden.

Well, I think that makes it both more difficult and more expensive for the United States to carry out its policies with relation to Lower Slobovia. You end up having to do by direct government action what you cannot do through the encouragement of private sector action. You have to adopt government programs when private sector investment might have done as well or better with resultant burdens of the taxpayer.

For many, many years we have discussed the benefits that arise from trade versus aid, and I say that both of these amendments would discourage trade and increase dependence on aid, which is the more expensive, more burdensome, more difficult way to encourage economic development in those areas where the national policy of the United States has determined that we should be encouraging economic development.

I do think that this is a foreign policy question. I think that it is the kind of question which would have been referred, at least for consultation, to the Committee on Foreign Relations, had it arisen in a timely way in some earlier proceeding. If it had come as a free-standing bill, I think there could have been joint referral to both Foreign Relations and Finance. That has not been possible because it comes as an amendment on this bill. But I do think that we are dealing here with a very complex, very difficult subject. It is easy to make speeches about bashing terrorists, but it is not going to be so easy to administer this kind of law if you are the Secretary of State or the President of the United States trying to execute a foreign policy in the years ahead. That is what concerns me.

So, Mr. President, I hope the Senate will reject this amendment first, on the grounds that it really has no place in a simplified Tax Code. It is just putting back the barnacles that the Committee on Finance has been trying to scrape away. Second, it is a foreign policy question of great complexity that should not be adopted without the most careful kind of consideration and the advice of the Secretary of State and the advice of the Secretary of the Treasury, which to my knowledge is not yet available. So I think that it would be premature under any circumstances to adopt the amendment, even if it were otherwise acceptable, and I urge Senators to vote to reject it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the proceedings under the call of the quorum be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, the tax reform legislation reported by the Senate Finance Committee is the result of a legislative process that began more than a year ago when the Treasury Department submitted its original plan for comprehensive changes in the Federal income tax laws. That plan quickly became known as Treasury I, because only a few months after its release the Treasury Department submitted a very different, but equally comprehensive plan, known oddly as Treasury II. In December 1985, the House of Representatives passed its version of comprehensive tax reform, and the bill before us today is the Senate substitute for that House-passed tax reform bill. So in the span of about 18 months we have seen four comprehensive tax reform plans. The proponents of each plan have claimed the same goals: To make the Federal income tax system more fair and more simple; to encourage economic growth; and to maintain the current level of Federal income tax revenues, neither more nor less.

The members of the Senate Finance Committee, led by its chairman, Mr. PACKWOOD, and its ranking minority member, Mr. LONG, have worked hard to achieve these goals. The Senate's job now is to evaluate the work of the Finance Committee, to improve upon it if we can, and then to send the legislation to a conference committee with the House of Representatives. Naturally, we cannot be sure that this bill, or even the bill that eventually emerges from the conference committee, will achieve these goals of fairness, simplification, economic stimulation, and revenue neutrality. Economics is an uncertain science in our present state of knowledge and the prediction of economic behavior a clouded crystal ball. But the Senate's obligation is to make a judgment, and at this point in the process we can at least discern the outlines of both the positive and the negative features of this tax reform proposal.

Surely there is much to applaud in the bill reported by the Finance Committee. Through a combination of methods—including increases in the standard deduction and the personal exemption—it removes lower income households from the Federal tax rolls. The provision of an earned income tax credit also helps relieve the tax burden on lower income working Americans. The Finance Committee bill also aims to restore confidence in the income tax system by including a strong minimum tax provision which applies to both individuals and corporations and which should insure that wealthy individuals and profitable corporations will no longer be able to legally avoid paying Federal income tax. The bill before the Senate closes many of the tax loopholes and restricts some of the tax shelters that have for too long diverted spending and investment decisions away from profitability and productivity. Finally, the reductions in marginal rates mean tax cuts for most individuals, giving most Americans more money to spend, save or invest. In all these ways, we have reason to believe that the Finance Committee bill may be able to achieve its objective of a fairer, simpler, more efficient income tax system.

At the same time, however, I have reservations about other aspects of the bill before us. The Finance Committee has done a good job, but it could be made better. In three areas in particular I hope that we will consider improvements as this bill is debated.

My primary concern is with the effect of this tax bill on savings and investment. There have been few constants in the turbulent history of Federal income tax legislation, but the maintenance of a differential rate for long-term capital gains is one of them, and I am not convinced that we can safely abandon it, as the Finance Committee bill proposes.

We must bear in mind the reasons for treating income from long-term capital gains differently from other income. The capital gains exclusion is not a tax shelter. Tax shelter investors actively seek out investments that will lose money, at least on paper, in order to obtain inordinate tax benefits. Tax shelters sometimes perversely reward failure. But favorable capital gains treatment is available only to those who provide capital for ventures that meet with success in the marketplace. Deductions for long-term capital losses are stringently limited, and cannot exceed $3000 for an individual under current law. But the individual who invests in a venture that proves profitable is rewarded by the capital gains exclusion.

The treatment of capital gains under the tax laws since 1921 reflects a phi-

losophy that encourages risk-taking and entrepreneurship. The successful risk-taker, who invests in profitable, productive activity, reaps a greater reward than the individual who invests in a safer asset, such as a bond. If, as the Finance Committee proposes, income is to be taxed at the same rate regardless of its source, investors may well shun the innovative and invest only in the safe. Businesses that need capital—particularly new, start-up ventures—may be the first victims of such a policy, but the ripple effect on American productivity, innovation, and competitiveness could be particularly harmful. That's why we must carefully consider the effect of tax reform on capital formation. Surely it may be appropriate to restrict the availability of the long-term capital gains exclusion, but I question whether it should be jettisoned altogether.

A related question concerns the rate of savings in the American economy which falls far short of that of our major international competitors. The Finance Committee bill seems to assume that merely reducing the top tax rate from 50 to 27 percent will stimulate increased savings and investment. I am skeptical, since I recall that similar expectations were raised in 1981 when the top rate was cut from 70 to 50 percent; but the anticipated increases in the rate of savings never materialized. We should remember that the savings rate will increase substantially only when middle-income taxpayers start to save more; and they receive less of a tax cut than the top rate taxpayers do under this proposal. Perhaps this bill should be improved to place more emphasis on stimulating savings among the middle class, rather than relying so heavily upon tax rate reductions for upper income taxpayers to stimulate savings.

These questions about savings and investment had to be faced every time we considered changing the Tax Code. But they are particularly important today. We are all painfully aware of the problems that American industry encounters competing in the world marketplace. There are many reasons for our troubling trade deficit, but the shortcomings of our tax system surely play a part. The impact of Tax Code changes on capital formation is an essential consideration in any program to restore America's competitive position. Short-term tax relief for individuals will certainly be eroded if tax reform does not respond to the long-term needs of our economy; and the need to compete with other industrial powers must be at the top of that list.

Many of our trading partners tax their industries in ways that do not affect manufacturing costs or prices of exports. In contrast, the U.S. tax system burdens business throughout the manufacturing process and results in higher prices for our exports which are thus less competitive in the world market. In a hearing in the Subcommittee on International Economics several years ago, the automobile industry estimated that about half of the problem of foreign competition in the United States originated with differences in tax systems. This tax differential was rated as much more devastating to American business, both in competing with imports here at home and in competing in the export market abroad, than even higher U.S. labor costs or any other cost of production.

The bill does not correct this condition. Sponsors of the bill call it a consumer oriented bill, but they should concede that in these respects it is an antibusiness bill.

My second major concern about this tax proposal is its impact on the progressivity of the Federal income tax system. The committee proposal makes substantial improvements in progressivity by removing lower income Americans from the tax rolls. However, I am concerned that the Finance Committee bill may have minimized the distinction between middle and higher income Americans. The reduction of the tax brackets to only two, rather than the three brackets proposed by the President, or the four brackets proposed by the House of Representatives, may have gained on the side of simplicity but at the expense of fairness. As the Senator from Maine [Mr. MITCHELL] pointed out in his article in the Washington Post on Monday, fully 16 percent of the total tax relief provided in this bill will go to the top one-half of 1 percent of taxpayers.

Progressivity has been a characteristic of the Federal income tax since its inception. In 1906 President Theodore Roosevelt in advocating the introduction of a Federal income tax made a compelling argument for a progressive tax system.

> There is every reason why, when next our system of taxation is revised, the National Government should impose . . . a graduated income tax. The man of great wealth owes a peculiar obligation to the state, because he derives special advantages from the mere existence of government. Not only should he recognize this obligation in the way he leads his daily life and in the way he earns and spends his money, but it should also be recognized in the way in which he pays for the protection the state gives him.

As we debate this measure, we should explore whether its rate reductions and simplifications extract too high a price in terms of the principle of progressivity enunciated by President Roosevelt.

My third concern is that the bill does not addresss an important tax issue with profound implications for our economic relations with our trading partners. That issue is embodied in the President's bill on the worldwide unitary tax system, which is now pending in the two tax writing committees of Congress. The worldwide unitary system is a method used by a few States to assess the State tax liability of multinational corporations. Both United States and foreign based. Contrary to the arm's length tax policy accepted by our Federal Government and all of our major trading partners, the worldwide unitary system embraces all of the revenues generated around the globe by all affiliates and subsidiaries of the corporation. This overreaching has been a thorn in the side of our trading partners, especially Great Britain, and a significant disincentive to investment in the States that use it. This is not a new issue—I have been involved with it since I came to the other body in the early 1960's—but it is ripe for action now, for two reasons.

First, the United Kingdom is now on the verge of implementing severe retaliatory measures that would seriously affect American companies doing business there. Such retaliation is virtually certain if we fail to enact a unitary tax prohibition this year. Second, the proposals pending in the Finance and Ways and Means Committees now have the full and active support of the President and the Secretary of the Treasury. Next to tax reform, this bill is their top priority in the tax field.

The unitary tax bill is revenue neutral—it does not affect Federal tax revenues at all—but it amends the Internal Revenue Code, and therefore would fit comfortably within the overall tax reform proposals before us. I hope we can give serious consideration to incorporating the unitary tax bill—S. 1974, introduced by Senators WILSON, HAWKINS, and myself—in the tax reform bill that we are now debating.

One final caution on the issue of revenue neutrality. This tax plan, like its predecessors, aims to be revenue neutral. But the Senate is obligated to examine carefully the revenue estimates on which this claim is based. This is not to suggest a lack of confidence in the economists who developed these statistics. The staff of the Finance Committee and the Joint Committee on Taxation have worked diligently to assure the fairness and reliability of their estimates. However this proposal is comprehensive. It does not merely revise the Federal tax system, it seeks to transform it. The changes wrought in individual and corporate behavior may be so profound that the revenue effects may be literally unpredictable. I offer this caution not because I have a better method for estimating the revenue impacts, but only to suggest that if we are to err we must err on the side of gaining rather than of losing revenue. We are already faced with annual Federal deficits well above the $150 billion mark, which

have caused economic problems that are well known to every Senator. We must be particularly carefull that the effort to rationalize our tax system does not upset the progress we have made toward controlling our deficits.

□ 1220

Mr. PACKWOOD. Mr. President, it is obvious that at some stage we are going to vote—not necessarily on this bill—on the matter that is presented on this issue. We will have several other tax bills, including the debt ceiling, before the Senate before the session is over.

Therefore, it is my hope that we could withdraw this amendment, realizing that there will be a full opportunity for debate and a vote on a number of tax bills coming along.

Mr. D'AMATO. Mr. President, we have really substantial business to accomplish here. We are concerned about the American taxpayer subsidizing the so-called pariah nations—Libya, and so forth. That is going on.

I am deeply appreciative of the chairman's agreement to give us another opportunity, before Labor Day, to address this question in a substantive form, with an up-and-down vote. Therefore, I withdraw the amendment that has been submitted.

Mr. GRASSLEY. Those who argue that the foreign policy issue of terrorism has no business being discussed with tax reform have missed the point that, in the area of foreign tax credits as applied to terrorist countries, our tax sysem is in direct conflict with our foreign policy interest of defeating terrorism. Consequently, on the terrorist issue, foreign policy and tax policy are closely interrelated.

If we are really serious about getting tough with terrorists, we have to strike at terrorism in every conceivable legitimate way, and this surely includes denying terrorists indirect tax subsidies.

We are not taking away the right of companies to operate in these countries, where it is legal to do so. If a company wants to operate legally in one of those countries, it can.

We are sayng, however, that the American taxpayer will no longer be forced to support these company operations whose foreign taxes are used to spread terrorism around the world. It is only reasonable to require our tax policy to conform with our foreign policy of antiterrorism.

Mr. President, I am going to follow the same procedure that the Senator from New York suggested. I find no trouble with that, because we are looking at long-term tax policy here and having that tax policy parallel our foreign policy. That foreign policy today is that we are going to combat terrorism wherever we find it around the world, and our tax policy does not conform with that today.

However, I do not want to unravel this entire tax bill, either. Since we have been assured of a vote, and since the long term is more important than the short term in this matter, I, too, ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PACKWOOD. Mr. President, I again thank the Senator from Iowa and the Senator from New York. They have presented issues that are valid and fair and are entitled to a vote. I appreciate their accommodating us on this bill.

I hope we can finish the bill as soon as possible. It is the greatest change for the American public in tax policy in 50 years. I can see our getting into extended debate on this. Both Senators have been very accommodating, and I thank them.

Mr. KENNEDY. Mr. President, has the amendment been withdrawn?

The PRESIDING OFFICER. The amendments have been withdrawn.

Mr. KENNEDY. Mr. President, I wish to take a moment to join in expressing appreciation for this action by the Senator from New York and the Senator from Iowa.

I, along with others, had introduced legislation very similar to the current legislation, to apply similar provisions to South America. We now have assurances of the members of the Finance Committee that we will have an opportunity to debate that issue, as well as the amendment proposed by Senator D'AMATO and Senator GRASSLEY, prior to the Labor Day recess. So it would not be my intention to offer that amendment, since these assurances have been given to us by the Finance Committee.

I hope that, given the action that has been taken by the House of Representatives this past week, the Senate might have an opportunity to address that legislation before the July 4 recess, if we are able to finish this legislation.

So I want to express that viewpoint at this time during the debate and discussion.

Mr. BRADLEY. Mr. President, I express my appreciation to the distinguished Senator from Iowa and the distinguished Senator from New York for withdrawing their amendments. I think that aids the movement of this historic piece of tax legislation, which will accrue to the benefit of all Americans.

I say to the distinguished Senator from Massachusetts that I look forward to a tax bill on which all these amendments will be offered, because I will be supportive of the position of the Senator from Massachusetts.

Mr. PACKWOOD. Mr. President, we are now prepared—the managers of the bill and the others who are on the floor—to go forward with other amendments.

I have talked with the majority leader, and it is his intention to be in rather late tonight. We hope to dispose of other amendments this afternoon, if the proponents are ready to go forward with the amendments.

The PRESIDING OFFICER. The question is on the committee substitute.

Mr. BRADLEY. Mr. President, however much I would like to be able to deal with the question of the committee substitute, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1230

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, what is the pending order of business at this time?

The PRESIDING OFFICER. The committee substitute is the pending order of business.

AMENDMENT NO. 2072

(Purpose: To restore the State and local sales tax deduction, and to impose a 1 percent floor on all itemized deductions not otherwise subject to a floor)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 2072.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1415, beginning with line 10, strike out all matter through page 1416, line 4, and insert in lieu thereof the following new section:

SEC. 135. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible), as amended by sections 132 and 133, is amended by adding after section 280I the following new section:

"SEC. 280J. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

"(a) GENERAL RULE.—In the case of an individual, the applicable itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) APPLICABLE ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'appli-

cable itemized deductions' means the itemized deductions (within the meaning of section 63(d)) other than any deduction—

"(1) under section 165(a) for losses described in subsection (c)(3) or (d) of section 65,

"(2) under section 213 (relating to medical deductions) or

"(3) to which section 280I applies."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280J. 1 percent floor on all itemized deductions not otherwise subject to floor."

Mr. DIXON. Mr. President, under the committee amendment, State and local income and property taxes would continue to be deductible, while State and local sales taxes would lose their deductibility.

The committee report argues that ending the deductibility of sales taxes is appropriate in the context of broadening the tax base and lowering tax rates. It points out that some State and local excise taxes on specific products are currently not deductible; it argues that only a small percentage of taxpayers take advantage of the sales tax deduction; and it maintains that the current deduction is administratively complex and burdensome and therefore should be eliminated.

While I understand the committee position, I fundamentally disagree with the conclusion that sales taxes should no longer be deductible and with the arguments that support that recommendation.

First, it should be pointed out that the current deduction for all major State and local taxes—that is, income, property, and sales taxes—is the most widely used deduction by taxpayers who itemize. It is even more widely used than the homeownership deduction.

Looking specifically at the sales tax, it is important to note that sales tax revenue accounts for over 40 percent of the tax income of 13 States, including New Mexico, Louisiana, Nevada, Tennessee, Washington, Mississippi, West Virginia, Hawaii, Alabama, Florida, Texas, Arizona, and Oklahoma. An additional 14 States count on sales tax revenues for over 30 percent of their tax base, including my own State of Illinois.

At least 45 States count on sales tax receipts for over 10 percent of their local resources, illustrating that the sales tax is a vital revenue source for almost all of the States of the Union. It is a resource, however, that they are in real danger of losing, and that they will lose, if the Senate Finance Committee position prevails.

It is important to remember that States are not the only institutions that utilize sales taxes. Cities, and special purpose local governments, also either receive major amounts of sales tax funds, or impose their own sales taxes. For example, there is a special sales tax in the Chicago metropolitan area to support mass transit. The sales tax is roughly 31 percent of the tax revenues of the State of Illinois but it is the single largest local tax resource for the transit agency. If this source of revenue were lost to it, the results could be catastrophic. This is one example; it can be duplicated many, many times over in communities around this Nation.

Mr. President, the loss of tax deductibility will clearly make it more difficult for States to consider the sales tax as an alternative for raising needed revenue. It will also create substantial pressure to reduce existing sales taxes, putting further financial pressure on already hard-pressed State and local governments.

The impacts of this change, in my opinion, will be felt in numerous State programs. Importantly, State support for education may be among the hardest areas hit. In my own State of Illinois, for example, the sales tax provides over 30 percent of State support for our educational process. Eliminating deductibility of the sales tax, therefore, will make it more difficult for the State to meet its commitment to education. I do not know about others, but this Senator certainly does not want to take an action that will create major new financial problems for our Nation's educators.

I have used Illinois as an example, but this problem exists across the country, which is why so many educational groups favor retention of full deductibility of State and local taxes.

The Finance Committee recommendation creates major problems for State and local governments because it is a major item for most taxpayers. In 25 States the average sales tax deduction is over $400 per year. In an additional 17 States, the sales tax deduction is over $300 per year. The average sales tax deduction was $476 per itemizing household in 1985. Sales taxes, therefore, are a significant part of taxpayers overall State and local tax deductions, and the loss of this deduction, in my opinion, would certainly be felt by most itemizing taxpayers.

It is essential, therefore, to retain sales tax deductibility if the sales tax is to remain a viable part of the State and local government tax base. The amendment I am offering provides a method of accomplishing that goal, without changing anyone's tax rates or putting a disproportionate share of the burden of the change on middle-income America.

The amendment restores full deductibility of the sales tax, restoring the basic tax neutrality of current law. This amendment ensures that the Federal tax will not bias State or local government revenue-raising decisions. It will also remove the terrible disadvantage that face local units of government that rely on the sales tax for most or all of their income.

It accomplishes this objective without disadvantaging States or localities with high tax levels. Unlike another proposal that has received considerable attention, it does not put a percentage cap on the deductibility of all State and local taxes to achieve revenue neutrality, and therefore does not create Federal burdens for States trying to fill the gaps caused by the enormous cuts in Federal programs that aid State and local government.

We have already greatly added to the States' difficulties by eliminating revenue sharing and dramatically reducing other Federal programs. We should not also in this bill make it more difficult to meet their revenue needs or create disadvantages for States that make use of the sales tax to raise revenue.

Importantly, Mr. President, this amendment is revenue neutral. In fact, the Joint Tax Committee believes adoption of this amendment would essentially change revenue totals over the 5-year period under the committee bill by negligible amounts. The amendment does this by putting a 1-percent of adjusted gross income floor on itemized deductions. This means, for example, that a taxpayer who has an adjusted gross income of $30,000 and itemized deductions of $8,000 would subtract $300, leaving a net deduction of $7,700.

Use of this mechanism does not make major changes in the distribution of tax cuts by income class when compared with the committee bill. Indeed—listen to this, Mr. President—if this amendment is adopted, all income classes below $75,000 would receive greater—I said "greater"—aggregate tax cuts than under the Finance Committee's proposal. Only those with incomes above $75,000 would do slightly less well. I ask unanimous consent that a table comparing the distribution of tax cuts by income class be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

See exhibit 1.

Mr. DIXON. Let me just say in conclusion that, as I stated yesterday, we cannot leave resolution of every issue to the forthcoming Senate-House conference. I believe this is a reasonable solution to a difficult problem. I do not think we can afford to pass a tax reform bill that leaves out the sales tax deduction. I urge my colleagues, therefore, to join me in voting for this amendment.

EXHIBIT 1

PERCENTAGE CHANGE IN TAX LIABILITY BY INCOME CLASS

Income class	Committee bill (percent)	With Dixon sales tax amount (percent)
0 to 10000	−63.0	−63.0
10000 to 20000	−20.1	−20.2
20000 to 30000	−8.1	−8.4
30000 to 40000	−5.0	−5.3
40000 to 50000	−6.6	−6.9
50000 to 75000	−3.9	−4.0
75000 to 100000	−3.3	−3.3
100000 to 200000	−3.8	−3.5
200000 plus	−4.7	−4.2
Total average tax cut	−6.4	−6.4

Mr. PACKWOOD. Mr. President, again, let me call to the attention of the Senate what we tried to do in this bill. We have tried to dramatically lower the rates—15 percent for individuals, minimum; 27 percent, maximum; and 33 percent for corporations instead of 46—and we tried to do it by eliminating the loopholes. Loopholes are those things you regard as egregious; deductions are those things you may not think are egregious. We understood the tradeoff. If we wanted to get the rates at 15 and 27 percent—and the 15 percent is for 85 percent of the taxpayers in this country—you will have to be above $42,300 gross income for a family of four before you go above the 15-percent bracket—we knew we would have to make tradeoffs, because the only way you could get it down was to eliminate major revenue-losing deductions—the investment tax credit, the above-line deduction for charitable contributions, capital gains, and some form of State and local taxes.

Let me address myself to that specifically. We did present to the committee—I presented to the committee initially, a bill that rather than just eliminating the sales tax deduction and not eliminating any others, slightly trimmed each of the principal tax deductions—State and local income taxes, State and local property taxes, State and local sales taxes.

The committee weighed the merits of perhaps allowing you to deduct 85 to 90 percent of each of those other taxes as opposed to totally eliminating the sales tax deduction and totally keeping the deductions for the other two. The committee rejected my original proposal and opted to go with, instead, the elimination of the sales tax. And I think I understand why, and there are a number of reasons.

First, it is a path down which we have already trod for years in the Congress and it raises a rather large amount of money. We already prohibit the deduction, on your Federal tax form, of a whole variety of selective State sales taxes. We call them excise taxes, things like the cigarette tax, liquor tax, gasoline tax, and driver and vehicle registration. Those are not deductible on your Federal tax.

Now, in 1984—and I want everyone to understand what a relatively large figure those excise taxes in the aggregate are—in 1984, State and local governments collected in sales taxes about $81 billion. In all of the other excise taxes that they collected that are not deductible, they collected $56 billion. So it is not an insignificant amount of money.

We thought to ourselves, as we had already done it in a variety of other areas, if would be something less onerous, less objectionable than starting down a new road, especially as it related to real property taxes, which are the backbone of every sanitary district, school district, city, county, or water district, and what have you.

Second, we discovered that, although $81 billion in sales taxes were collected by State and local governments in 1984, only $19 million of it was itemized and deducted; whereas, $65 billion in income taxes were collected by State and local governments in 1984 and $57 billion of it was itemized and deducted. So you had a quantum difference. And we were fully aware that the reaction—telling taxpayers they could not deduct some portion of their income tax—would be infinitely greater than saying you could not deduct all of your sales tax. So that was a conscious, political, deliberate judgment. We were looking to find ways to get revenue so we could lower the taxes, so we hit upon the deduction of the sales tax and eliminated it.

The Senator from Illinois would now put back in that deduction and would pay for it by eliminating 1 percent, based upon your adjusted gross income, of all of your other itemized deductions except those which already have a floor. Again, I want to use an example. Let us say you make $10,000. That is your adjusted gross income. One percent of that is $100. Let us say you add up all of the deductions you have—you have a home mortgage deduction, property taxes, charitiable deductions, and what-not. You add those all up and you have $3,000 in deductions.

Instead of being able to deduct $3,000, under the amendment of the Senator from Illinois you could deduct only $2,900. You would subtract 1 percent of your adjusted gross income from your itemized deductions.

□ 1250

So what we would be saying to every home owner who itemizes, to everybody who pays any kind of property taxes, mortgage interest deductions on your home, charitable contributions and what not, we are going to nick you a little bit so that everyone can have their sales tax deduction. That is an honest difference of opinion as to which way you want to go. The committee weighed it and went one way. The Senator from Illinois weighs it, he is going to go the other. In fairness he should understand who sales tax deductions benefit.

First, they benefit upper income taxpayers because lower income taxpayers do not itemize. That is again, as always, talking about averages. Usually lower income taxpayers do not itemize. But it is interesting to look among the itemizers because you see a significant difference. You start to itemize your taxes probably again, talking about a family of four, as you get into the $20,000 to $30,000 bracket. You do not have many people itemizing below $20,000, and especially if they are a family of four. When you get $20,000 to $30,000, you start to itemize; $30,000 to $40,000 you have more; when you get above $40,000, almost everybody itemizes.

But those in the lower income brackets of those who do itemize usually use a standard table if they are in a sales tax State that tells them how much they can take for a sales tax deduction. They do not bother to go through and add up their grocery and pharmacy receipts, or receipts for when they bought clothes for the kids. They do not for whatever reason. You are entitled to keep track of all of it, and do that instead of using the chart. But most of those who itemize who are, I would say, in the $20,000 to $40,000 class simply use this chart that the Internal Revenue Service puts out that tells them how much they can take on average.

The problem with that chart is that it probably understates what you can take. Most people take the table amount. Wealthy taxpayers who itemize however do not use that chart. You see just the opposite.

It may be for two reasons. One, maybe they are simply more adept at keeping their receipts. So they know when they bought groceries, and they know what the sales tax was. They know when they bought some kind of prescription for the kids' strep throat, what it was, and they keep track of all of it. But they also know when they bought a fur coat. If it cost them $10,000, and there is a 5-percent sales tax, and they paid $500 on that fur coat; they know when they bought a Mercedes-Benz for $50,000 with a 5-percent sales tax, that they paid $2,500; they know when they bought a $2,000 watch and paid 5 percent that they paid $100; and they list all of those items and claim them as deductions.

If you are going to put back the deduction for the sales taxes, understand that you are going to be putting back in the deduction that is not only taken mostly by upper-income people because they are the ones who itemize,

but is taken disproportionately more by the very wealthiest upper-income itemizers because they are the ones that spend a great portion of their money on very expensive items that have sales taxes added to them, and they deduct them.

In order to pay for those very wealthy taxpayers to be able to take that deduction, you are going to nick all of the $20,000, $25,000, $30,000, $35,000, and $40,000 taxpayers who just barely moved into the itemization, and are deducting maybe $2,000 or $3,000 total in real property taxes, mortgage interest deductions. You are going to nick them. This is one that really touches the middle-income class to pay for the wealthy.

I think it is unfair. I think it is unwise.

On balance, I understand the policy of which way you want to go to raise the money to lower the rates. On policy, I think we went a better route than my good friend from Illinois wants to go. But from the standpoint of fairness and equity, I think there is no question of who you are favoring if you put back in this deduction.

Mr. DIXON. Will my distinguished friend, the manager of the bill, yield for a question?

Mr. PACKWOOD. I will try to.

Mr. DIXON. One of the things that troubles me greatly about what the Finance Committee did in connection with these tax deductions is that you permit the deduction of income tax, real estate tax, and personal property tax, but not sales tax. For instance, in my own State, over 16 years ago we eliminated the personal property tax because generally it was not very collectible. Many people did not pay it. It was not a fair and equitable tax.

So what you have done in effect in the Finance Committee product is to say that in Illinois, you can deduct the real estate tax, you can deduct the income tax since we have no personal property tax, you cannot deduct that, and the sales tax which is a very important source of general revenue you cannot deduct.

Did the committee consider those questions of fairness?

Mr. PACKWOOD. Yes. We absolutely did.

Mr. DIXON. Why did it single out one tax above all others?

Mr. PACKWOOD. As I indicated in my statement, the bill that I first put forth did exactly what the Senator said in the sense of touching each of the taxes a little bit, including personal property tax, real property tax, income tax, and sales tax. The committee rejected that idea.

In the process of rejecting it, did we talk about fairness? Yes. In the process of rejecting it, did we talk about who took deductions for sales tax and who did not? Yes. Did we talk about whether wealthier taxpayers took more when they itemize than those not so wealthy? Yes; we talked about all of them. We weighed all of them.

The judgment of the Finance Committee may have been wrong. I don't know. What I would suggest, if this amendment is disposed of unfavorably, is that the Senator from Illinois offer an amendment touching each of those taxes a little bit so that it touches them all equally, and let the Senate work its will on that kind of an amendment.

Mr. DIXON. How many States do not have a personal property tax, if the chairman knows?

Mr. PACKWOOD. How many States do not have the personal property tax? I cannot remember how many do not have it. One of the things on the personal property tax, it is a relatively slight tax. Again I will put it in comparison.

With the elimination of the sales tax we raised about $18 billion of revenue. Had we eliminated the deduction of the personal property tax, it would have raised about $1 billion, but about half of that, about $500 million, was taxes on mobile homes. Technically those do not count as real estate but people live in them. They count them as homes. So we thought it would be unfair if you were going to say you could keep a mortgage interest deduction to eliminate a personal property tax half of which fell on mobile homes. So I do not know how many States have personal property taxes. It is a much less amount of money.

Mr. DIXON. As I understand what the chairman is saying, part of the consideration of the committee is the amount of revenue that was saved from the standpoint of the overall features of the bill.

Mr. PACKWOOD. Without question, that was in every decision we made.

Mr. DIXON. I wonder where the spirit of fairness is. I do not mean to be offensive to the chairman for whom I have the greatest personal regard, but the information given to me is that we are among the few States in our country represented in the U.S. Senate that does not have a sales tax.

Mr. PACKWOOD. That is correct. That has been alluded to in any number of occasions. I say once more that when I initially put in the bill, I did not single out the sales tax. And the committee weighed touching each of the taxes. The first bill I put in would have had a 25-percent top rate. I directed the Joint Committee on Taxation to produce us a bill that would produce a 25-percent top rate and the only way the joint committee could do it was to have a slight limitation on the deduction of income taxes, real property taxes, and sales taxes. They also had personal property taxes with the limitation. I presented it to the committee. And the committee turned it down. They said we will not vote to touch income taxes, real property taxes, and they really put personal property taxes in the same category because half of that was taxes on mobile homes.

But did the committee talk about fairness? We did. Did we talk about equity? We did. Did we talk about how much money we could raise in the elimination of the sales tax versus roughly an 85-percent elimination of the other three taxes? We did. It would raise about the same amount of money if you were to touch 85 percent of all the other taxes. Again, I say to my good friend we may have made a mistake in judgment. That is a decision that the Senate should make if someone would offer an amendment saying, "Let's touch all of the taxes equally."

Mr. DIXON. I thank my good friend, the distinguished manager of the bill, for his answer.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

□ 1300

(Mrs. KASSEBAUM assumed the chair.)

Mr. BRADLEY Madam President, the distinguished Senator from Illinois has offered an amendment dealing with the State sales tax. Let me say that my State has a sales tax. Yet, I support eliminating the deductibility of sales taxes. It was not an easy vote. But I think that it framed for us the choice of tax reform.

□ 1300

If you are going to get tax rates down and broaden the tax base, the way you broaden the tax base is by eliminating loopholes.

As I pointed out on the first day of this debate, the value of all tax loopholes in 1967 was $37 billion. The value of all those loopholes today is over $400 billion.

So the committee began a process of attempting to figure out which loopholes they were going to close.

The deductibility of State sales taxes was one of those that we decided to close.

There have been a number of arguments in favor of retaining the deduction of State sales taxes. While I certainly agree that a State ought to have the right to choose the kind of tax system that it wants, I believe that there are better ways of providing relief from the sales tax burden than by providing deductibility of that sales tax on the Federal income tax form.

Let me explain.

First of all, everyone agrees that sales taxes are regressive. By regressive, I mean it hits the middle- and low-income person harder than it hits the upper-income person.

The fact that sales taxes are regressive is really one of the main reasons that we instituted an income tax back in 1913. Before 1913 the Federal Government raised revenues through taxes on things like coffee, tea, iron, cotton, woolen goods, and general manufactured products. The result was a terribly unfair system in which the wealthiest paid little tax in relation to their income, and the lower average working citizen in this country paid significantly more of their income in taxes.

One of the earliest and, I would argue, most eloquent proponents of Federal income tax was a Senator named John Sherman, from Ohio. On this floor in 1871 he made the point quite poignantly. I would like to read what he said.

In answer to a question he posed a question, which was:

"Can a rich man with overflowing revenue"—in other words, a lot of money—"consume more sugar, coffee, or tea, or chew more tobacco, or drink more whiskey than a poor man? We tax tobacco at the same rate per pound whether it is tobacco for the wealthiest or the poorest."

The fact of the matter is that Senator Sherman's message is as true today as back in 1871.

He went on to point out that the tax on an article consumed is unjust upon the poor because the poor have to consume a greater portion of its income in its purchase than the rich.

What the Senator again was saying 100 years ago is as true today as it was then.

Unfortunately, allowing a Federal income tax deduction for State sales taxes does not alleviate the unfairness. On the contrary, it compounds it.

Why do I say this? The answer is because the poor generally do not claim a sales tax deduction. Now, Mr. President, I would like to refer to a chart that I have referred to throughout this debate, reminding all of us who the taxpayers actually are and how they benefit from a specific provision in the Tax Code.

As you will recall, the taxpayers break down into these subgroups. Fully 85 percent of all taxpayers earn under $40,000. Twelve percent are between $40,000 and $75,000, and one-half of 1 percent of the taxpayers earn over $200,000.

That is who the taxpayers are. We frequently believe that the taxpayers are overwhelmingly people between $40,000 and $75,000. Not true. Thirty-two percent of all taxpayers earn under $10,000. About two-thirds of them are kids under 25 and the bulk of the rest are elderly women.

About 21 percent of the taxpayers earn between $10,000 and $20,000. Thirty-two percent of the taxpayers earn between $20,000 and $40,000.

Once again, 85 percent of all taxpayers earn under $40,000.

Now, let us look at the sales tax.

First of all, just look at the number of Americans who take a sales tax deduction. There are 100 million taxpayers, and of the 100 million taxpayers, only 36 million, or 36 percent, claim the sales tax deduction. That means that 64 million households, 64 million taxpayers, who pay State sales taxes every time they go to the store, did not claim the deduction. So they got no tax benefit. Zero.

Who are these 64 million families who paid sales taxes but got no Federal deduction? The answer to that is quite clear: Primarily low- and moderate-income individuals.

Now, let us look at who did claim the sales tax deduction and what the value of that deduction was.

Of the people making less than $10,000 in income, only 5.8 percent claimed the sales tax deduction. Only 5.8 percent of the people making under $10,000 claimed the sales tax deduction.

The average value of that deduction was $1. That is what this particular loophole means to people under $10,000 of income. It means they save $1, on average, on their taxes.

Mr. President, let us look at the next income scale, individuals who earn between $10,000 and $30,000.

In that level, only 23 percent of the taxpayers actually claimed the sales tax deduction, and the average tax benefit for that class of taxpayers was $4.

We move up to the 32 million Americans who earn $20,000 to $40,000, and their average benefit from this deduction was $25.

On the other hand, let us move up now to the man on the hill, the man who is not deep in the hole or struggling to get out or hanging on the edge, or even moving on level ground or with a little break going up. Let us look at the man on the hill.

What was the value of this deduction for him?

First of all, 91 percent of this category take the sales tax deduction, 91 percent. The average benefit, the average tax savings, was $312.

So, Mr. President, there is no question that this particular deduction benefits disproportionately upper income Americans.

I would argue that by allowing, therefore, the deductibility of sales taxes, it is a very poor way of providing relief to those Americans for whom the sales tax is, indeed, a hardship. They have to pay it but they do not get the deduction.

I think really there is a better way to go, and that better way is embodied in the present tax reform bill the Senate is considering.

What do I mean?

□ 1310

If you look at State tax systems, you find that many tax systems have State income taxes and State property taxes and State sales taxes. You find that 29 States have both a sales tax and an income tax. That income tax is tied to the Federal Code, which means the State income tax code is essentially the Federal Income Tax Code. Whatever change is made in the Federal income tax system automatically flows through to the State system.

So what happens to these 29 States that have both sales taxes and income taxes that are tied to the Federal system? Under tax reform, what happens to them? What happens to them is that the base of their income tax system is dramatically broadened because any loophole we eliminate at the Federal level is automatically eliminated at the State level. That means that they have a broader base on which to raise taxes.

Mr. President, what is the effect of a broader base on which to raise taxes? That means that the State government will have more revenue. Instead of having a tax base like this, it will have a much broader tax base. If they keep the income tax rate at its present level, that means they will have more revenue—a windfall, so to speak.

What might they do with that windfall? I hope that what they would do is see the value of providing relief to those individuals, the bulk of taxpayers, earning under $40,000—85 percent. I hope they would take the additional revenue that they obtain from the tax reforms legislation's effect on their tax system and cut the sales tax. If they were able to cut the sales tax, they would have the same amount of revenue, but it would be a more progressive system.

Mr. President, let me say that this is not merely theory. There are many astute State governments that are looking at what is happening in Washington very carefully and have already begun not only to realize what benefit this reform is for their States, but also to make the necessary changes at the State level.

For example, the New York Commission on Taxation and Finance has recently stated that if the Finance Committee bill were enacted, New York would be able to lower tax rates or add additional deductions and cut the sales tax as a result of this tax reform windfall.

Mr. President, that is precisely what effect tax reform should have on State finances. It should encourage State finances to be more progressive. It should allow State governments to cut regressive sales taxes while raising the same amount of revenue for the important functions of State government.

Let me also point out that the State's right—a State has a right to have whatever tax system it wants. If States choose to have sales taxes alone, that is clearly their choice. But in terms of who uses the sale tax deduction, I think it is also interesting, and the chairman pointed it out, that of the total amount of sales taxes raised by States, roughly 25 percent is deductible. Of the total amount of income taxes that are raised by States, fully 90 percent is deductible. The way to help people least able to pay the sales tax is through tax reform, through bigger exemptions, through bigger standard deductions, through bigger earned income credits. That, Mr. President, is what this bill does.

If you think about the rest of this debate, I am sure that there will be those who will say that we should have an even more progressive tax system. I think we should have a more progressive tax system, but I do not ignore what this tax reform bill has done to insure progressivity. What it has done is expand the income of the rich for tax purposes. For example, we have brought into income capital gains. Mr. President, 60 percent of the income of people who make more than $1 million in this country comes from capital gains. They now have to include that income.

What else have we done, Mr. President? We have phased out passive losses. Many upper-income individuals avoid paying tax by investing in tax shelters and receiving passive losses. So the bill before us is progressive. One of the ways that it retains progressivity is by eliminating the deductibility of the State sales tax. So for those who would argue that we should have an even more progressive tax reform than the one we passed out of the Finance Committee, I would certainly expect those Senators to vote to eliminate the deductibility of State sales taxes.

If, on the other hand, the Senator is saying, "I want to keep the deductibility of State sales taxes but I want a more progressive system at the Federal level," he is essentially saying, "From the standpoint of my constituents in my State, I would like to have the Federal tax system more progressive, but I don't care if the State tax system is regressive." To be consistent, a Senator must argue for progressivity at both levels and, in this case, support the elimination of deductibility of the State sales tax.

What this reform package means, Mr. President, is so important to the future of this country. It is beyond economics. It goes to how people feel about their Government. A couple of years ago, the pollster, Dan Yankelovich, had a question in one of his polls. The question was: "Do you believe you can get ahead in America if you abide by the rules?" Overwhelmingly, over 80 percent of the respondents, said "No; we don't believe we can get ahead in America if we abide by the rules."

A big set of rules that I think they were referring to were the tax rules, in which equal incomes did not pay equal tax; in which there were great disparities; in which some people were able to avoid paying tax completely until the present tax system emerged, in which many people earning under $10,000 a year paid more taxes than did millionaires and in which middle-income people were called upon year after year to pay the freight for government.

This tax reform bill changes that. It drops the tax rates dramatically. Four out of 5 people pay no more than 15 percent in tax. It broadens the tax base so that equal incomes will pay equal tax.

Mr. President, this is a reform package not only well worth supporting but well worth praising. One of the elements of this system is the elimination of the deductibility for State sales tax because that will call upon State governments to follow the lead of the Federal Government and enact tax reform at their State level.

I yield the floor.

□ 1320

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment of my colleague from Illinois. I think our hearts are both in the right place. I think they are basically in the same place. But he has a problem in arguing to eliminate the deductibility of State sales taxes that he has to raise an equivalent of money someplace else to do it. In my view, Madam President, he has selected the wrong area to do it and in just a minute I am going to explain that because it is a little ironic; since about in 1982 sometime I proposed a solution to one of our intergovernmental fiscal quandaries that did almost precisely what my colleague from the State of Illinois has done, and that is propose to fund in this case general revenue sharing out of a limitation on the deductibility of State and local taxes at 1 percent of adjusted gross income. I will explain why I view the funding part of his amendment differently in just a minute.

Our colleague from Illinois in his questions of the chairman of the committee accurately raised the issues of fairness and some of the issues of financial tradeoffs, and as a member of the committee and as one who is opposed to the position of the committee to eliminate the deductibility of the sales tax, let me say that the issue of fairness certainly was discussed. And in connection with the proposal by the chairman that we reduce the top rate on income tax to 25 percent, he is accurate in saying that the majority of the committee said they did not want to pay the price of a 25-percent rate which would have included touching the deductibility of income taxes or property taxes.

In effect, what happened is that a majority of the 20 members of the committee were persuaded that if we had to find $6.6 billion somewhere and that we had gone through the rest of the base trying to find opportunities for broadening, that of all the State and local tax deductions the one most susceptible to being included in the proposal would be the sales tax deduction. I think in the chairman's explanation of the committee bill as it relates to the sales tax deduction he covered some of those reasons. He talked about the numbers of people who take the deduction, and so forth. I would just have this to say about that particular argument. I do not think it is any more an argument in favor of the committee position than is the argument just made by my dear colleague from the State of New Jersey that the sales tax is a loophole and therefore ought to be closed, that any State and local tax is a loophole which ought to be closed. To characterize the payment of State sales or local sales taxes or property taxes, real estate, personal property, or income taxes as a loophole in the Tax Code is a little ridiculous. This is one of those things you cannot avoid. You can avoid borrowing money and taking an interest deduction if you live within your means. You can avoid a variety of other deductions if you do not make some appropriate investment which qualifies you for that deduction. But you cannot avoid in America the payment of taxes. And you cannot avoid in most States in this country the payment of some combinaton of taxes.

At the local level the traditional tax has been on ownership, or on wealth, let us say, as reflected in ownership. Back in the beginning of this country we not only taxed ownership of property, we sent with it the qualifying right to be the only people in our society who voted, who had the right to elect those who were going to levy the taxes we were going to pay for all of the protections for property. So in the traditional sense in this country it has been the property tax or some tax on wealth which has sustained government at various levels.

As this Nation in the post World War II period began to move to a more consumptive economy, when we decided we were going to start up the engines after the Second World War, we were going to keep the engines of the Second World War economy going full blast to restore the economies of the entire world, we decided that we

needed to expand the base under the tax system at all levels of government, and we took the basic notion of wealth into a 93-percent tax on income generated in the course of producing wealth. Eventually we took it into the area of sales taxes which happened to have been, as the Senator from New Jersey indicated, a tax ususally reserved for making war. When we had to go to war, if we had to defend ourselves in the first 125 years of our history, we had a temporary excise tax of some kind to generate the resources to do that. But in the post Second World War period, with the booming economy and the booming demands on government and then the enlarged role that the National Government was playing, with all of that came an expansion of the system of taxation at all levels.

We said we will educate people at the local level and we will put in their streets and their roads, and so forth, with a tax on property. And we will then tax at the State and the National level income and eventually sales and use the resources from people's consumption and the resources from people's income to supplement that property tax at the local level.

So there grew up in this country over the last 40-some years a very carefully put together, although it looks accidental, system of intergovernmental relations, a relationship between the National Government and its national responsibilities, the State government and local government, and all of that was held together by a system of taxation which basically taxes the ownership of property, the production of income, and the consumption of goods and services in this country which are subject to a tax on sales.

Now, I think that system which feeds the hungry and cares for the poor and shelters the homeless, builds streets and protects the environment and does all of that sort of thing is very, very different, Madam President, from a system which can be characterized as excesses in the investment tax credit, excesses in depreciation schedules, excesses in a variety of ways that brought us to broaden the base in the tax system by promising a reduction in the rates of taxation because these taxes, sales taxes at the local level, sales taxes at the State level, which are used to generate the opportunity for education, which are used to maintain basic local and State services in most States in this country are not to be characterized, as my colleague does, as loopholes. They are the necessities of public life in America today.

Now, he talks about the regressivity of the sales tax and in part if you measure regressivity as he does all individual deductions are regressive because a limited number of people under the current system take the itemized deductions so a limited number of people will benefit from the specific deduction. But his argument in that regard is no different when we are talking about the mortgage interest deduction or the charitable deduction or talking about the sales tax deduction. It becomes regressive only when its share of the total tax burden is disproportionate. If you are in a State that relies very, very heavily on the sales tax and does not have the capacity to tax income because perhaps it is not there to be taxed, and has already relied very heavily on the property tax so its choices are limited as between income and sales tax, then the sales tax becomes more regressive than might the income tax in the same situation. And in fact, Madam President, it is for that reason that I oppose the committee majority decision to eliminate the deduction of sales tax because the elimination of the deduction is what discriminates, not the deduction itself. I believe, if I am correct in my memory, that the State of Louisiana meets about 68 percent of its educational needs through a sales tax. I think in the State of New Mexico about 72 percent of the public needs of the people are met through a sales tax.

□ 1330

So, obviously, people in those States who are paying a sales tax are taking on a heavy burden.

Mr. LONG. Mr. President, will the Senator yield on that point?

Mr. DURENBERGER. I am glad to yield.

Mr. LONG. I am glad the Senator brought up that subject. Many years ago, when my father provided the leadership in Louisiana, he realized that low-income people, especially in the midst of a great depression, were in no position to pay a property tax. Many were being foreclosed on and losing their homes. He led the movement to provide a homestead exemption to provide that a person would pay no property tax on his home. The exemption was financed with an income tax, to shift away from property taxation.

In the same tradition, other States have found it popular to provide relief from property taxation by shifting to other taxes—income tax, sales tax, and others.

In the original tax reform proposal, it was suggested that you should deny the deductibility of property tax, deny the deductibility of the State income tax, and deny the deductibility of the sales tax.

I do not find much appeal to any of that. When I look at the State of Louisiana, insofar as we use those three sources for revenue, two-thirds of it's 68 percent, comes from the sales tax.

If the Senate prevails in this measure, Louisiana will have no choice but to shift away from the sales tax. The people I am hearing from are mainly the assessors and local officials. They point out that even though it is in our State constitution that we have the generous property tax exemptions for individually owned houses, where people are living in their own property, we will be compelled, if this becomes the law, to amend our constitution and to bear down with taxation on homes, which our people do not want to do.

Of course, by the time we get through with all this, the Federal Government will not raise much money by saying that our people cannot deduct the sales tax.

I ask the Senator: Why should it not be left up to a State to decide how to tax its own citizens—the same citizens who elect you, elect your Governor, and elect the State legislature? Why should the Federal Government try to dictate to the States that, as between taxing themselves by way of a sales tax or taxing themselves by way of a property tax, the decision must be made in favor of taxing their homes instead of taxing what they buy? Why should not the Federal Government stay out of that?

One might say that is not the purpose, but that is how it works.

It is as if somebody points a gun at you, pulls the trigger and says, "I didn't mean to kill you. I just wanted to show you this is a dangerous weapon." The overall effect is that something very bad happened that you did not have in mind. One would say, "Why must it be that way?"

I totally agree with the Senator that this will compel Louisiana, which has more unemployment than any other State in the Union, to shift taxes from what we wanted to do. The low-income family had a little home, and we did not want to tax it. This would compel us to reconsider that decision and to tax a lot of middle-income homes, rather than tax those people by way of a sales tax on what they buy.

I submit that under our form of government, that decision should be left to the States and not dictated by the Federal Government.

Mr. DURENBERGER. I thank the Senator for his statement.

I am tempted to respond by asking, why does the Federal Government have to dictate?

The Senator from Louisiana came here in 1948, when the Federal Government was not doing a lot of dictating, and my colleague has been around during the whole period when we learned how to dictate. I was not here then.

I came here, I think, because a lot of people in my State came to the conclusion that the answer to the question was that anybody is smart who goes away to where it is smarter to go,

somewhere else. If they kept me in St. Paul, I was not that smart. If they sent me to Washington to work, I was smarter, they felt.

I do not think that is the reality today. There was a period of time—as the Senator from Louisiana could regale us a lot better than I could—in which coming to Washington, in effect, was a charter to be smarter than anybody else; and we used this Federal income tax and we used inflation to make sure they did not have any money left to pay property taxes in Louisiana, that they did not have any money left to pay taxes in Louisiana; because the combination of the Federal income tax and inflation took so much of it to Washington, where all the smarter guys were, that you had to dream up ways to send it back. That is where, using the system of cooperative popularism, they got the idea to send a check to the 50 States and American Samoa, and we have solved the problem. It strikes me that we are now moving out of that era, showing everybody how smart we are, and we have a $2 trillion national debt. We are moving out of that period of time and saying that the folks back home are pretty smart.

If that is the reality and they are smart, and they can do a better job than we, where are they going to get the money? They cannot get it out of the Federal Government, because we are cutting back on block grants and getting all the carrots we had planted when we had inflation and a 70-percent income tax rate.

Where are they going to raise the money? Each State will raise it differently, as the Senator from Louisiana points out.

Maybe in Louisiana you have to use the sales tax because you cannot raise your income tax.

Maybe in my State, and I think this is the reality, we use the income tax, most people say, too heavily. But our sales tax in proportion to everything else is low.

If you are in Nevada, where most of the people come from someplace else, of course you are going to have a sales tax.

So each State is going to be somewhat different. The way they raise their resources to meet the needs of their people will differ with each State.

I take it that this is what the Senator is saying: We come along in Washington and say, "No, the sales tax is bad. We're not going to provide deductibility for the sales tax. But the property tax is good. We'll give you a deduction for the property tax."

What is going to happen? All the States will say, "We had better raise our property taxes, because those smart guys in Washington think that's the place to do it." Then we raise the price of homes even higher, and lots of folks cannot afford homes.

Mr. LONG. As the Senator knows, before the bill was reported and before this decision was made, the Senator from Louisiana suggested that he would be willing to cooperate in denying some of the deductibility of State and local taxes, provided it was done in a way that is neutral among all the States. You could say, "Well, of your State's deductions, income tax, property tax, and sales tax deductions, nobody could deduct the first $300 or the first 3 percent of adjusted gross income." That was not agreed to.

Instead, we were confronted with the fact that the sales tax was selected.

The Senator from Louisiana said:

> Let's treat all the States the same. You have the same problem in every State. If we need the money that badly; let's treat them all the same.

□ 1340

That was not agreed to.

Some States do not have a sales tax.

That makes me say what I said so many times before, that the average person's definition of tax reform is "Don't tax you and don't tax me; tax that fellow behind the tree."

The President gave me a T-shirt that had that written on it at the White House, the Senator may recall.

That is an illustration. People in States that do not have a sales tax, think it is fine to not let them deduct a sales tax. It will not cost his taxpayers one penny. But those of us from States who by force of necessity are compelled to rely upon a sales tax, that is a very, very harsh thing to do to us.

Mr. DURENBERGER. Madam President, I wonder if my colleague from Louisiana, who has been here so much longer and is so much wiser—that is a presumption, and I happen to believe it—would agree with me that perhaps the best solution to this problem is the House solution that the House of Representatives went through in the Ways and Means Committee. They went through the same kind of agonizing problems we went through, but obviously they said that the relationship between the Federal and the State Government is not the same as the relationship between the national tax system and the steel industry or ITC or depreciation, so forth. So they said no, do not touch, do not touch the deductibility. Do not try to get in there and select between various taxes.

I wonder if my colleague would not agree that the best solution for this problem is not the solution of the Senator from Illinois or the percentage solution of the Senator from Louisana, but a solution that says the States have a tough enough time raising taxes as it is, they will have a more difficult time taking on these burdens that we are asking them as people to take on. Why do we not just leave the system the way it has been from the beginning since we had a Federal income tax? We have deductibility and the deductibility is simply a way to say in the 27-percent bracket it says if you spend a dollar on education in Louisiana, of locally raised money, the Federal Government will match that with 27 cents. And we will not tell you how to spend it but we will match it with 27 cents.

It seems to me one of the reasons we do that is that we can get out of the business of saying I have 27 cents, but I want you to spend it this way and then we tell them one way to spend it in 50 States, and that is not a very efficient way to go about it.

But, in effect, the system that has been there from the beginning is a matching system. The decisions are not made here. The decisions are made in the parish in Louisiana about how to handle law enforcement or education. Our match in this new system is not a big match. It is going down like everything else. It used to be 70 cents on the dollar. Now we only match it 27 cents on the dollar.

Mr. LONG. Madam President, if the Senator will yield further, this to me is somewhat similar to the problem that involves taxing the interest on State and municipal bonds. If you deny that deductibility under the Federal laws, and if the Supreme Court will uphold it, then all the States will be compelled to pay more interest on their new issues of bonds, and in due course on the old bonds when they are refinanced, it will cost about 2 points more in interest. There are a lot of bonds out there. My guess is about $700 billion worth of them. If you put 2 points on that State and local debt across the Nation that would work out to about a $12-billion tax which clearly falls on the State government, and the only way they can bear it is to tax their own citizens to get the money to pay the tax with.

If we were to do that, all we would have done would have been to tax our own citizens by making the State government do it to them, while we, ourselves, try to pretend that we are trying to be fiscally responsible up here and pay our way by putting the burden on someone else.

As far as the taxpayer is concerned, he is wise enough to know when he thinks it through that you are not doing him any favor by the Federal Government taxing the State government just like you are not doing him any good by the State government taxing the Federal Government. That poor fellow down there at the grass roots is paying for both governments. It does not solve his problem for a

moment by trying to take the burden off one to put on the other.

Mr. MOYNIHAN. I wonder if the Senator from Louisiana will allow me to interrupt.

Mr. DURENBERGER. I think I have the floor. I will just be very brief, and then I will yield to my colleague from New York who has been the champion of the theory, not the theory but the reality of what we have been discussing. I would like to end with a compliment to our colleague from the State of Illinois. We have been down here on the floor since he came to this body with him debating on behalf of the capacity of States and local government and not just the local government of Illinois, not just the State of Illinois, but on behalf of those people who have the responsibility of meeting the needs of people at the local government level and the State government level for a long time.

So, I cannot support the Senator, particularly in his solution. The 1-percent floor puts too many nails in the coffin of deductibility. It goes after the income tax. It goes after the sales tax, and so forth. It is not as bad as what is in our bill already and we hope to have another solution here which is a sense-of-the-Senate resolution that will guide the hands of the conferees toward the House solution.

So while I must oppose the Senator, I do it with the greatest deal of respect for the fact that we do not disagree on the issue of deductibility.

I yield the floor.

Mr. MOYNIHAN. Madam President, I simply wanted to join the Senator from Minnesota in thanking our friend from Illinois for raising this question. It is a question very much in our minds and it is a question on our minds. I think we all agree here and I think our chairman will agree that the Senator from Louisiana just spoke of the problem of the Federal Government taxing a State, and that is exactly what would be involved in this question of deductibility.

And it is that issue of principle that speaks to us in terms of we do not want to compromise it with respect to property taxes, we do not want to compromise it with respect to income taxes, and we do not want to compromise it with respect to sales taxes either. We want to get to sales taxes in the sequence that will work itself out here. But we do not want to get the sales tax at the cost of having compromised those two first principal sources of State revenue which have come out in this tax bill absolutely exempt from any Federal taxation.

That is the principle that the Senator from Louisiana has argued in the various forms in which it comes before this body for years very well and so far we have not abrogated it.

I would have to say that I would have the same position as the Senator from Minnesota, but I absolutely agree with the concerns and share the concerns of the Senator from Illinois.

Mr. LONG. Madam President, I do not have much confidence in the outcome of this matter on the Senate floor, but I am very hopeful that the colleague of the Senator from Illinois who comes from the State of Illinois, the distinguished chairman of the Ways and Means Committee, will reflect the same view that the House bill reflects on this issue. I hope to be a conferee but if this amendment should not succeed at this time, the House position will be that of the Senator from Illinois and I would hope that he will do his best to encourage his colleagues to stand fast.

I, of course, will be bound to the Senate bill, but I would do all I can to encourage my conferees on the Senate side to give very thoughtful consideration to the argument that the Senator made as well as those which I hope will be made by the chairman of the House conferees, the chairman from Illinois, Mr. ROSTENKOWSKI.

Mr, DIXON. Madam President, may I say in response to my distinguished and warm friend from Lousiana that I stand here with complete confidence that he will be a conferee. I know his devotion to this cause. By virtue of the private expressions from him and others on the floor today and my confidence in the view of my distinguished friend, the chairman of the Ways and Means Committee on the House side, I think I will rest my case and permit a voice vote to be taken on this amendment in the ultimate belief that many here are allies who will join with my colleague, the distinguished chairman of the Ways and Means Committee, to ensure that ultimately sales tax deductibility will be protected in the ultimate bill that emerges from the conference.

Mr. LONG. Even if I am not a conferee, I am satisfied that Mr. ROSTENKOWSKI will be, and I hope he will be effective when we go to conference.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2072) was rejected.

Mr. PACKWOOD. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1350

Mr. MOYNIHAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1430

Mr. DOLE. Mr. President, I ask further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SYMMS). Without objection, it is so ordered.

The majority leader is recognized.

Mr. DOLE. Mr. President, it is now about 2:35 p.m., and we have been in a quorum call for about 30 minutes. I know the distinguished chairman of the committee, Senator PACKWOOD, and the distinguished ranking member of the committee, Senator LONG, would like to do business. There will be a lot of frustration tomorrow from Members who would like to leave at a reasonable hour, and maybe some frustration tonight by people who would like to leave at a reasonable hour, 10 or 11, midnight, some reasonable hour. It would be much easier to accommodate these folks if they would come to the floor and offer their amendments.

We are prepared to do business. The chairman is ready to go to third reading. If there are any amendments, obviously Members should have an opportunity but we are not making much progress.

The PRESIDING OFFICER. Did the Chair understand the majority leader to say that he was calling for third reading now?

Mr. DOLE. Just a thought I had. But no, I will not do that right now. I think the thought occurred to the chairman even as early as yesterday, or before. So I would urge my colleagues on both sides, we are prepared to do business and we know that these are important amendments. This is a very important bill. It is historic tax reform and I think it would demonstrate to the American people not only our interest in that bill but our willingness to try to get it behind us as quickly as possible. It would mean a lot to the American people if we were working instead of being in a quorum call. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1450

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I ask unanimous consent that we proceed as if in morning business for 7 minutes for the delivery of a statement regarding the Rogers Commission report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

Mr. DENTON. Thank you, Mr. President.

THE ROGERS COMMISSION REPORT

Mr. DENTON. Mr. President, the Rogers Commission has completed its work and its findings are now being digested. My hope is that the work of the Commission will result in a safer, stronger, even more efficient Space Program for our country.

I commend the Commission for its efforts to take a serious look at the most complex and dangerous engineering endeavor in which man has ever been involved. I believe it is to the great credit of the Commission that it went about its work in a spirit of problem solving and not one of witch-hunting and searching for scapegoat agencies and individuals upon whom to place blame.

Unfortunately, some of my colleagues in Congress as well as many in the media have not adhered to that spirit and are now basking in the great modern-day, no risk sport of "Monday morning quarterbacking" and know-it-all second guessing. Many of these folks are Johnny-come-lately types who were never or seldom heard from through the long years of our nearly flawless Space Program, which aside from being dangerous is ambitious and inspiring to our Nation and to the world.

If we are going to spoil the spirit by which we made these glorious achievements and indulge in searching for those to blame in a malicious manner, rather than a positive vein, I should admit that I have an inherent suspicion of people who point fingers and try hard to place blame in that kind of spirit.

I must alert my colleagues that I do not intend to sit quietly by while attempts are made to recast the reputation of our highly successful Space Program as one of failure, operated by people who do not care and whose general trait is arrogance or negligence. That is simply not the case.

I believe it is especially unfair to the thousands of dedicated individuals who work in our Space Program—many in my own State of which I am very proud—as well as to all Americans, to communicate the image to the world that there is something drastically wrong with the structure of the program.

To the contrary, all those who are working on our Space Program should feel proud to be pioneers contributing to an amazingly successful effort which for years has been on the leading edge of the high tech revolution of this Nation. I personally know of the years of successes and contributions to the program by the men and women of the Marshall Space Flight Center.

I would say to them, and to all who have made our Space Program a great accomplishment, that going into space is and will continue to be a very dangerous undertaking. Despite all that we do, there will remain great risk and perhaps inevitably some errors.

□ 1500

Hindsight is always 20-20, always perfect, but we do not have the advantage of perfection in foresight.

Where there are problems, certainly they should and will be corrected—just as we have done in the past—as we did following the earlier tragedy in the Apollo Program. We cannot, however, escape the risks that are a part of exploration and research and development. We cannot anticipate or expect that we will be able always to identify all problems in advance, and to be able to solve them in advance.

As a former military aviator, with experience in research and development and test piloting, I can tell the rest of my colleagues, many of whom have had similar experiences, that progress in such an ambitious and dangerous undertaking can never be achieved totally accident-free. And, when there are accidents, yes, we must find where the error was, but we should do so without malice and without arrogance.

I am confident that the men and women of NASA will carry on, doing their best, and that they will be successful in their efforts. Similarly, the Congress must stand behind NASA and support the effort to get the shuttle program back on line and operational, with all reasonable attention to safety. I am pleased that the President, in his news conference last night, indicated that we would be building the fourth orbiter.

We need the shuttle for our national interest. Let us proceed to get it up there and get it up there in the kind of spirit of generosity and spirit of ambition which has fired this Nation to its present pinnacle in the world. We need space for our future.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

TAX REFORM ACT OF 1986

The Senate resumed consideration of the bill.

IMPACT OF TAX REFORM BILL ON FARMERS

Mr. HEFLIN. Mr. President, the Senate is embarking on a historic effort to completely overhaul the Tax Code with the goal of giving the American people a simpler and fairer tax system. I am very hopeful that I will be able to support this effort, and I believe I will. However, I am greatly concerned over how this bill will impact on rural America, particularly our Nation's farmers. There is no doubt but that any tax reform bill that ultimately passes Congress and signed into law by the President will have a significant impact on farmers for many years to come. We must ensure that such a bill is not a detriment to agriculture. As currently written, however, I believe the Senate Finance Committee bill would be harmful to agriculture.

A primary goal of tax reform is to bring fairness to our tax system by abolishing loopholes and shelters used by wealthy individuals at the expense of lower and middle-income taxpayers. The Finance Committee bill boldly attempts to achieve this goal by significantly lowering the tax rate for all taxpayers and making up the loss of revenue by abolishing loopholes that serve no socially useful purpose and that distort economic decisions. Unfortunately, farmers depend on many of the incentives in the Tax Code in order to keep their farms running and their heads above water. The troubles of rural America during the past several years are well known and are so devastating that the result is that thousands of farmers have lost their farms. It is up to the Federal Government to take whatever action necessary to revive and revitalize rural America so that it too can share in the current economic growth.

Mr. President, I am concerned with the current economic climate that exist on the American farm today. All of the economic indicators and statistics make it clear that the food and fiber producers of this Nation are in a state of economic depression. Farm income continues to decline. Last year, net income was only $27 billion. This was $8 billion lower than 1984. If the 1985 figures are adjusted for inflation and expressed in real dollars, net income was barely one-half of 1979's level. In fact, Mr. President, real net farm income last year was lower than the real net farm income in 1929. Real net farm income was higher in 1939 than it was last year.

Mr. President, I think the Senate should closely examine the impact the Finance Committee bill will have on future farm income. Will this bill stimulate increased revenues for our financially distressed farmers? I do not think so, Mr. President.

I want to examine provision by provision the potential impact of the Finance Committee tax bill on our Na-

tion's farmers. First, under the Finance Committee bill farmers would no longer get capital gains treatment from the sale of section 1231 property which includes livestock held for dairy, draft, breeding or sporting purposes and timber. Under the committee bill, for a noncorporate family farm with a taxable income of $35,000, the tax rate on the sale of additional capital assets would be 27 percent on 100 percent of gain. Under current law, the tax rate on that gain would be 11.2 or 28 percent on 40 percent of the gain.

Total farm assets declined more than 10 percent last year. Estimated asset value is now $865 billion, down 22 percent from the $1.1 trillion peak reached in 1981. The owner's equity in these assets has fallen to the lowest level since 1977. Will the elimination of the capital gains treatment from the sale of section 1231 property enhance the value of farm assets? I do not think so Mr. President. Many economists believe that eliminating these provisions will, in fact, further depress land and other asset values.

A second area in the Senate plan which detrimentally impacts on farmers is the repeal of income averaging. This provision is used very often by farmers to even out their volatile changes in income. A farm family of five with an income alternating between $0 and $40,000 per year would pay five times the tax as a family of five earning $20,000 each year. I believe income averaging should be retained for taxpayers with volatile incomes. Without it farmers with substantial income in the year of sale will not be able to offset that year's gain by prior years of low income or loss.

The Senate bill would allow farmers to continue to utilize the cash method of accounting which is currently used by almost all farmers. However, farmers who use the cash method of accounting would not be allowed to deduct the amounts paid for feed, seed, fertilizer or other supplies prior to the year consumed if more than 50 percent of farm expenses are prepaid. Restricting the prepayment of these supplies to 50 percent of farm expenses would severely limit the ability to defer taxes through prepayment of expenses.

The Senate bill would also repeal the investment tax credit currently allowed for qualifying capital investments. Most farm machinery and equipment, many farm structures, and certain livestock qualify for the full 10 percent credit. For example, under current law if a farmer buys a tractor for $40,000 his after tax cost would actually be $36,000. If the investment tax credit is repealed his after tax cost would be $40,000 or $4,000 more than under current law. The bill also allows only 70 percent of unused investment tax credits to be carried forward. In 1983, farm sole proprietors held over $3 billion in accumulated tax credit and it is likely that current accumulated tax credits equal or exceed this level. Thus, the 30 percent reduction in value for investment tax credit carryovers would cost farmers in excess of $1 billion in unused tax credits. Based on 1982 IRS statistics, a large share of these unused tax credits are held by farmers with substantial debt and with little or no off farm income.

Mr. President, hundreds and hundreds of farm equipment dealers and agricultural businesses have folded over the past 5 years. This of course, has devastated main street in many rural communities and small towns. Thousands of jobs have been lost. Economic growth in the farm belt is dependent on the purchases made by the farmer. Will the repeal of investment tax credits give the needed incentive to increase capital purchases of new and used farm equipment? I do not think so, Mr. President.

I have read some arguments that if the investment tax credit is repealed, the hobby farmer and nonfarmer investor will be forced out of agriculture. This provision of the Finance Committee bill will rid agriculture of overinvestment, I am told. This provision of the bill will encourage only farmers to remain in agriculture, I am told. Mr. President, the IRS has stated that the largest share of unused accumulated tax credits are held by farmers with substantial debt and with little or no off farm income. The IRS agrees that investment tax credit benefits the true family farmers. Will the repeal of investment tax credit benefit farmers by getting rid of overinvestment in agriculture? I do not think so, Mr. President. If we repeal investment tax credits we will be throwing out the baby with the bath water.

I was pleased that the Finance Committee came up with depreciation program for farmers which is more generous than current law. Machinery and equipment would be covered by depreciation schedules ranging from 3 to 5 years. For some assets a 10-year schedule would apply. Also, the 200 percent declining balance method for depreciating equipment will be allowed which will offer greater tax incentives in the earlier years of the schedule.

Farmers would also be hurt, as would millions of lower- and middle-income taxpayers, by the repeal of the deduction for sales tax and contributions to individual retirement accounts.

Mr. President, taken alone many of these provisions would not be detrimental to farmers. But added together these changes could prove devastating. The very least we can do is to insure that farmers have sufficient time to adapt to the repeal of income averaging. I urge my colleagues to join me in making this necessary change in the Finance Committee bill so that it is fairer to our Nation's farmers.

I intend at a time—and I will send to the desk when I conclude my remarks—to offer an amendment not for consideration right now, but which would allow income averaging to extend for 5 years only for farmers. I say, only for farmers.

The Joint Committee on Taxation says that this will cost over 5 years $330 million. That is a little more than $60 million a year. And it is one of those things that will not cost Treasury.

I am in the process of trying to find a palatable offset for the income in order to do this. And I may withhold this amendment until that.

I said I would sent it to the desk. But I had originally planned I would amend it, and put an offset in at the time I brought it up for consideration. But I think I will withhold the amendment, but just bring to the attention that this is not one that will cost a lot of money, $330 million over a 5-year period by extending income averaging for the farmer.

We have had in the Southeast a devastating drought that has taken place during the spring months. Many of the farmers have been delayed in planting. With the normal freeze time that we have for particularly some of the Northern sections, we can expect that we could have a disaster.

We have had either through hurricanes, through droughts, or other methods averaging about 1 out of 4½ years for various disasters that have taken place in which farm income has been greatly reduced because of weather conditions.

In addition to this, we have had such things as the embargo; we have had things such as overproduction, and where the prices fell tremendously that have affected it. It seems to me that this present crisis that the farmer is in today that we need to at least allow for a period of time, maybe permanently, but at least for 5 years to give the farmer an opportunity through income averaging to try to come out of the present crises that he is in.

With this in mind, I will offer an amendment later, perhaps maybe with some other people. But I do feel that consideration should be given to this. I think it is a very meritorious amendment. It is one that is needed. We have been faced over the last several years with many situations. We had a farm credit bill, I believe, back in February or March of 1984 which we attempted at that time, and a veto occurred. We were not able to come to the rescue of the farmer. There were those in the Farm Belt who felt that it was no more than a continuation of the same program that had been carried on and with not really any great benefits to

the farmers to try to get them out of the present problems that they are confronted with.

□ 1520

So I think as we look at this tax bill, without having them digging their graves deeper, we ought to give some type of relief to preserve for them the one thing that has allowed them to come out of a period of devastation. That is income averaging.

Mr. President, I hope that as we go forward, consideration will be given to this. I hope to be able to talk to members of the Finance Committee further about it. I also hope that this amendment will be adopted.

We are trying to come up with a palatable offset. We will be discussing it further.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, at the beginning of this debate, we heard a great deal about the danger of killer amendments. These potential enemies of tax reform were reported to be lurking in the cloakrooms and hiding in dark corners. It seemed certain that these amendments could not stand the light of day.

But last night we learned the truth. Killer amendments are those that force us to make tough choices. To support the integrity of this historic bill, we must oppose amendments that might have broad appeal in isolation, but are inconsistent with the key goals of tax reform—fairness, simplicity, and efficiency.

In rejecting yesterday's efforts to restore the popular IRA deduction, a broad bipartisan coalition took a major step toward Senate passage of comprehensive tax reform.

The simple truth is that low tax rates for all taxpayers are more appealing—and more deserving—than the restoration of particular tax deductions for particular taxpayers. The decision of the Senate to reject the IRA amendment is a powerful testament to the excellence of the Finance Committee's work and to the broad support of this body for genuine tax reform.

Now, the first difficult choice is behind us, but others lie ahead. New amendments will be offered on behalf of popular, even compelling, individual causes.

I expect that we will be asked to restore the charitable contribution deduction for those who do not itemize their deductions. It will be difficult to say no—but we should. It is an expensive amendment; in order to pay for it, we will have to undo a portion of the committee's best achievement—low rates and simplicity for all taxpayers.

Another tough choice will come on an amendment aimed at increasing the amount of tax relief for middle-income taxpayers. As I have said before, this is a goal I support, but not at the cost of reinstituting the unfair and ineffective capital gains exclusion.

Reinstating that exclusion would destroy the most sweeping move toward tax simplification ever taken—ending the double standard of taxation by which earned income is taxed at a higher rate than capital gains income. Over the years, untold inefficiencies, vast legal fees, and thousands of pages of complexity in the tax laws and regulations have been generated by the endless search for capital gains and the lower tax rate it brings.

The miracle of this Finance Committee bill is that the investment community is willing to accept a higher tax rate for capital gains in return for a lower tax rate on earned income. The committee solution is a brilliant compromise that taxes both types of income at the same low rate. It is the cornerstone of the tax simplification we have sought for so long, and it should not be reversed.

As we complete our work on this bill, I hope that the Senate will continue to summon the courage and determination that has characterized the debate and the votes so far. If we succeed, we will realize this historic opportunity for tax reform and all taxpayers will be the winners.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. PACKWOOD. Will the Senator yield?

Mr. DANFORTH. Yes.

Mr. PACKWOOD. Mr. President, I appreciate the fine comments of the distinguished Senator from Massachusetts referring to the coalition which is supporting this bill, both within and without the Senate. We have allegedly some of the most powerful interests in the country supporting this bill. We have the Children's Defense Fund, the League of Women Voters—they have all come together so far in opposition to all amendments.

As my good friend from Massachusetts indicated, yesterday, while we made some tough choices on IRA's, we have other tough choices coming on other matters.

I might say that one of the groups outside lobbying on this said that this particular bill does more to alleviate poverty than anything else we have done in this Congress in 20 years. That is only because we have come together to get the rates down and to get 6 million people off the tax rolls.

For every temptation that comes along, whether it is to take $300 out of the exemption instead of $2,000, or raise the rate a little bit, from 27 to 28 percent, so far we have stood together. I am delighted to hear what the Senator from Massachusetts has said.

Mr. KENNEDY. I thank the distinguished chairman of the Finance Committee. I know there have been appealing amendments, and we will face similar types of amendments which I think most of us would say move us toward achieving some objectives in social policy we may support. But I think the genius of this particular legislative product has been basically the lower tax rates for all taxpayers, rather than the continuance of the variants for the smaller groups of taxpayers.

Again, Mr. President, I commend the Finance Committee and look forward to working with them to see that this legislation is going to pass unencumbered.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I wonder if I could engage the chairman of the Finance Committee in a colloquy about an aspect of this bill that I believe needs clarification. What I have in mind relates to the restrictions on business meals in addition to the business meal deduction.

Mr. PACKWOOD. The 80-percent limitation.

Mr. DANFORTH. That is correct.

The 80-percent limitation on business meals is written into the bill and there is a further limitation on the business meal deduction. That is that there is a clear business purpose for the meal, that the expenditure is not extravagant under the circumstances, and that the taxpayer or his employee is present at the meal.

That is what we intended to do in the Finance Committee.

There is a separate type of situation which I would like to call to the attention of the chairman. That is not the usual business meal but instead it is the case where an employer makes a gift of a meal to his employee. For example, as a Christmas present or as a bonus, the employer might say, "All right, our gift to you is you can go out to a restaurant." That is a gift.

Under those circumstances, the employer says it is a gift. That is, the employee would take it as income and would be taxed on it.

The question I would put to the chairman is this: Under that circumstance, it would seem clear that the restrictions that we had in mind for business meals would not be applicable. That is, you would not want to make a gift, for example, to your employee, or think you were doing something nice for your employee, and he is all set to go out for his anniversary dinner with his wife and he has to discuss business transactions in order for the employer to qualify.

Mr. PACKWOOD. My good friend is absolutely correct. When we were passing the 80 percent, we were thinking of business entertainment. We

were thinking of you and me and different businesses going to lunch and deducting the 80 percent. We had no intention of having the employer not being able to have his 20-year employee go out for a delightful dinner.

AMENDMENT NO. 2073

(Purpose: To delete the exception for working interests in oil and gas property from the definition of passive activity)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 2073.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2223, beginning with line 10, strike out all matter through page 2224, line 2.

On page 2224, strike out "(4)" and insert in lieu thereof "(3)".

Mr. WEICKER. Mr. President, I want first to compliment the distinguished chairman of the Committee on Finance for truly bringing about the most spectacular legislative miracle that I have ever witnessed during the course of my years in the U.S. Senate. It is no secret—we all read it in the press—that the chairman and his staff and others who are supporting him were flat on the canvas when it came to tax reform just a short while back. It is easy to get discouraged and throw up your hands and walk away. But I have known BOB PACKWOOD for a long time. I did not expect that was going to happen and indeed, it did not. I realize many have worked with him, many of his colleagues, both Democrat and Republican, to achieve what we have had on the floor today; but if there were blame to hand out on failure, believe me BOB PACKWOOD would have gotten it in spades. Instead, we have something that he, and indeed it seems now the whole country, can take pride in.

I compliment him on his work—disagreeing in certain instances on the bill, but it is certainly something he can be very proud of and hopefully, shortly the Senate and the United States and the whole constitutional system can be proud of. It was well done in a parliamentary sense, in a technical sense, and it is truly the type of reform that I think the Nation has been looking for.

We have one problem, though, that still exists in the legislation as written. Everybody has been asked to go into the bath here, into the tank. That is fair enough as long as it is everybody. But we have a particular industry that continues to work its wiles on the legislative process. That is the oil and gas industry.

I suppose I can speak with special feeling on this subject because I was willing to take the heat for that industry several years ago when we had the issues of decontrol and deregulation. I was the only Senator or Congressman from New England, Republican or Democratic, who vigorously backed decontrol and does vigorously back deregulation. My section of the country has no oil or gas. We are consumers. I pointed out at the time that we did not deserve any special exception, that nothing should be carved out for us in the sense of guaranteeing us lower prices, that what we needed was to allow the free market to prevail—the free market. I felt that if we had a free market, the price would go down.

Believe me, I caught it, and it was my election year when I stood for this. That was back in 1982, and even before that. This was one of the big issues.

Indeed, I was called by my Democratic opponent in the last election the third Senator from Texas because I went ahead and supported the free market system rather than a system of controls, and do support the deregulation of the gas industry.

The economic theory proved to be right—at least the economic theory of this Senator; at least the reason we broke the back of OPEC is we allowed that free market to take hold.

But what is sauce for the goose now is sauce for the gander. Now the times are somewhat reversed and my State and the rest of New England are enjoying the benefits of those policies. Indeed, the whole country is; indeed the whole world is as the cartel of OPEC has been broken and broken in large measure because we broke the controls on prices imposed on us in the United States.

But free market means free market. What we are trying to do in this bill is establish economic demand, free markets. But again, we have a little exception now carved out for the oil and gas industry. I was not for an exception being carved out for New England when oil prices were high, and I am not for an exception for the oil and gas industry now that prices are low.

Mr. President, this is probably one of the more unusual amendments to come on the floor of the U.S. Senate in that I do not want to spend the money. I am not using this as an offset to something else. Let it go to reducing the deficit. I do not have some special program that I want to institute at the expense of the oil and gas industry. I want it to reduce the deficit. Again, I ask for nothing more than is being applied to everybody else.

I might add that shortly, my good friend [Mr. BOSCHWITZ] is going to stand up here, I gather, and talk about the issue of retroactivity. If you are in real estate, not only do you have a bleak future ahead of you insofar as some of the provisions of the bill are concerned, but to compound matters, it is retroactive. That is wrong, and I do not want any retroactivity insofar as the oil and gas industry is concerned.

I could have made this effective in fiscal year 1986, but I did not do that specifically so we would not get retroactivity involved in the issue I present to the Senate. What we are talking about is prospective—that oil and gas should be treated like everybody else; it is not going to be a shelter.

There are those who say that there are economic hard times in our oil-producing areas, and I recognize that. But it is not going to do any good in the long term to maintain the type of special interest exception that we have here. Again, I go back to the time when oil prices were high in New England and I was saying, decontrol, let the price go off and we will have lower prices in the long run. At that time, many businesses, because of high energy costs, were going under in the Naugatuck Valley of Connecticut—indeed, all over New England. But again, the point was made at that time and the point came true, that over the long haul, that free market and letting the market decide would drive the price of oil down.

If we want to legislate according to the moment, then this bill really is nothing more than has been passed through this place 100 times. But this is a bill for the future. It wipes the slate clean. But if it wipes the slate clean, so be it for everyone: In the Southwest and in New England, in the West, in the Midwest, in the South.

I recognize the fact that there are some very exceptional circumstances incorporated in this bill. I am sure other Senators are going to get to that. I cannot address that. Maybe there are some valid circumstances which require special exception. But to exempt an entire industry—that is not fair. That is not playing by the very rules which precipitated the cry for this legislation and which governed the drafting of this legislation. Tax shelters all over the lot have been closed up. Not oil and gas. Not oil and gas.

I am sure there is a lot of politics here, and that is as it should be. But remember, we are not selling this bill, or it has not been sold up to this point, to the American people as an exercise in politics. It has been sold as an exercise in fairness, as an exercise in simplicity. So we now have the first complication introduced and the first act of unfairness.

New England took its lumps when times were good in the oil-producing areas of the United States. New Eng-

land accepted the medicine of a free market, of letting the market regulate price, and we are better off for it today. You let this kind of broad exception into the bill and believe me, we have then started down the road which will only take a few years and we will end up with exactly what we are trying to get away from. This amendment, if passed, should save the American taxpayer about $1.5 billion over the next 5 fiscal years; but most importantly, it will make reality of the fact that this is truly an exercise for all Americans, both in terms of sacrifice and in terms of opportunity.

Mr. President, I ask for the yeas and nays on my amendment.

□ 1540

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the oil and gas industry today is the most depressed industry in the United States. We have had a great deal of conversation about what has been done to hold down the cost of living.

The big item, Mr. President, throughout the entire Presidency of President Reagan has been that the price of oil and gas has gone steadily down. It has gone down to the point that this industry is being liquidated. It is in the process of going out of business. The price was as high as $40 at one time, which surely was too high. And now, because of the changing situation, the price has gone steadily down to $20, then on down below $20, down to about $15 and then on down to $10. Some people thought, at $15, there was no way it could go any further down and made the mistake of buying reserves of oil and gas that were being sold in a distressed market and found it went on down to $10 and were almost wiped out before the good fortune occurred that it turned around and came back up to around $15.

One of the best ways to measure activity in that industry is how many rigs there are working in the country. A couple years ago there were 4,500 rigs working in the United States to produce more oil and make this Nation energy independent. I am told the latest count has that count at less than 700 rigs and that it is going to work its way on down to about 500 rigs. By the time the decline is through there will be about one rig operating for every nine we have.

Now, that is a great prejudice to our energy independence. We need the oil that this industry can produce, the energy it can make available. This dractic decline makes us more and more vulnerable to a repeat of what was done to us by Mr. Khomeini when he put us in lines waiting for gasoline back in 1979, or the type thing that occurred to us when the Arabs triggered their boycott of the United States and the OPEC cartel action in 1973, which caused President Nixon, under great pressure to try to meet the situation, to declare Project Independence to try to stimulate this industry to move toward independence. We do not have energy independence. We are nowhere near it. We are moving in the other direction, being more and more dependent on foreign sources.

Mr. President, I am sorry the Senator does not understand this bill quite as well as I do because he surely would not have made the statement that this industry is not paying dues in this tax bill. A lot of people have been investing money in joint partnerships, limited partnerships we call them, which invest in oil and gas operations. At the time when the business was good and a lot of People were interested in investing in these partnerships to get the benefit of limited liability, they could invest a certain amount of money in oil and gas. If the venture was unsuccessful, they could move away from it was no further liability than what they invested. Limited partnerships in this industry just as in the real estate industry or any other industry are subject to the minimum tax, that is, to the passive loss provisions in the law and so those measures are not longer available.

When one invests in an oil well today, if he is going to have the benefit of existing law, he has to have a working interest. If that well blows out on him, for example—and that is not at all unusual in Louisiana and Texas, especially if you go down a ways—if the well blows out, it might wind up costing you anywhere from 10 to 30 times, even more than 30 times as much, if you project the cost of that well, to bring it back under control. But one has to take that risk.

As the Secretary of the Treasury mentioned when he was on, I believe it was Meet the Press or some other nationwide talk show about a week ago, if a dentist wants to go into business nowadays or a doctor, he has to take his full share of the liability. He can wind up having his entire medical practice or dental practice wiped out by the loss that he would have to incur in order to have the deductions that are available under intangible drilling costs, for example.

Now, those are two items that very much adversely affect industry but there are other factors here as well. For example, the capital gains exclusion has made this an attractive investment in the past, when people could make money at it. That is gone. That is also wiped out by the bill. So capital gains is gone. These limited partnerships are gone. And the price is so low that everybody is cutting back; all the big oil companies are dismissing their employees by the thousands, and the smaller oil companies are going out of business completely, just shutting down, striking their rigs to collect the rust. Now, we will need all the oil producers we can get when we have to have them.

There is one other thing, by the way, which is hurting this industry and will hurt them in this bill. When you reduce the tax rate from 50 percent down to 27 percent, one who might be tempted to take the risk of drilling a well, because if he suffered a loss he could deduct 50 percent against a dry hole, is no longer there. He can only deduct 27 percent. So the comfort, the solace of being able to say, "Well, at least when I hit a dry hole it only cost me 50 cents on a dollar," with this bill it is going to cost him 73 cents out of that dollar when that well comes into a dry hole or if he has an intangible drilling expense, which one will have. If it is a development well or successful well and he goes to write off that intangible drilling expense, it is only a 27-percent writeoff.

So far as there was a tax advantage one could hope to have, it is again a 27-percent rate rather than a 50-percent rate. But as the Secretary of the Treasury himself pointed out so well on television a while back, this industry is hit very substantially by this bill beyond what was the case before.

If you were only limiting it to limited partnerships, the fact that they have to be part of an active working interest and in addition to that that they lose their capital gains treatment, which they had at an earlier date, that plus the other things—in years gone by we enacted what we called a 65 percent rule. We have totally repealed the depletion allowance as far as a major oil company is concerned. As far as the independents are concerned, there is now a 65-percent rule that the committee imposed some years ago, that you cannot deduct more than 65 percent of your taxable income in that percentage depletion.

So, Mr. President, one would say well, now, with everybody in the business going broke—they are all going out of business. You do not need to go past Louisiana and Texas. Louisiana is the most depressed State in the Union. We have more unemployment than any State down there. Why? Because that State depended in large measure upon the energy it could produce. They say, "Well, that is not enough; we want to do more to kick that industry and to hurt them." Because in the name of tax reform, even though they are all going broke, who is making any money that they are not paying taxes? Nobody.

But, "Oh, we still think we ought to do more to hurt somebody, because there are people out there who have

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the idea that oil and gas people, investors particularly, perhaps even some of the workers, are not very nice people."

□ 1550

As one Senator told me one time, this industry is not just plagued by prejudice. It is plagued by hatred on the part of some people who still want to punish those in the industry for sins that may have been committed 50 or 100 years ago, rather than something someone is doing today.

I urge that everyone recognize the facts of life. This is an industry that is paying its dues in this bill, as everyone else is. It should not be singled out for any further tax burden, because it is not justified. You do not have examples to prove it. It does not make sense, and the Nation is going to need the energy.

I hope, for the good of the country, this amendment is not agreed to.

Mr. WEICKER. Mr. President, may I ask a question of the Senator from Louisiana?

Mr. BENTSEN. I yield for that purpose.

Mr. WEICKER. My friend from Louisiana says hatred toward the industry exists. If you want to see hatred, be a New England Senator 6 years ago, standing up for decontrol, and that is what this Senator did.

So this is not motivated by hatred for the industry. I stood up for the industry when we should have had a free market, and New England did not like it because we had decontrol, which was supposed to keep prices down. It did not. So I understand hatred.

Make no mistake: What is involved here is the principle of free government and nongovernment interference, which includes exemptions, and I think it is as much benefit to your section of the country as mine.

I stood up for it when the burden fell on my head, and I am standing up for it when it falls on yours.

Mr. LONG. I did not say the Senator from Connecticut hated the industry. I did not say he was guilty of hatred. But people put the Senator under calumny and scorn because he did what he thought was fair and what the majority thought was fair.

Here we are now: We know that the windfall profit tax is not collecting a nickle. It was passed at a time when there was a lot of money being made, and against those circumstances, one could justify it.

Here, this industry is being liquidated. We have people down our way who were making $12 an hour and working 60 hours a week on those rigs which worked around the clock. They would work 12 hours on and 12 hours off and would get a week off and a week on. It made better sense to do that. Rather than transporting them, you take them back for a week and bring them home. They averaged 60 hours a week at $12 an hour, compared to what is available now, if they can get a job. They may get a job for 30 hours at $6 an hour, and that is those who can find a job.

The rigs are stacked. About seven out of eight are stacked, drawing rust. If somebody wanted to shoot those poor souls, they had better wait until they come up from beneath the water, because they are about to drown.

We really do not need any more burden, but this bill adds more burden by way of capital gains, which is important to that industry. Capital gains is gone for individuals. It does it to the limited partnerships and others.

I cannot complain about the fact that the tax rate goes down. But we already found that if we got the rate from 70 percent to 50 percent, a lot of people were no longer interested in investing or taking a chance on that industry. If the rate goes from 50 percent to 27 percent, far fewer people will be interested in investing.

I suggest that you look around the eastern money market, in Connecticut and in Manhattan, and see if you can find anybody investing anything in drilling for oil. Somebody might buy something sold at a bankruptcy. You can sell some of those rigs for scrap steel and get a little salvage value out of it. But with the way that industry is suffering today, to add a tax burden to what the bill already does, I submit, is not justified.

Mr. BENTSEN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Can I get in this fight on my own time? [Laughter.]

Mr. President, I heard my distinguished friend from Connecticut say he wanted to get back to the free market system. Does anyone really believe this is a free market system on oil today?

Does anyone really believe that the Saudis have driven down the price of oil because they want to keep it down? Absolutely not. They have driven down the price of oil because they want to whip the rest of the members of the OPEC nations into line; and once they get them into line, watch what they do to us and what happens to the price of oil then.

We should learn something from what has happened in the past. If you go back to where we were last year, 29 percent of the oil we used in this country was foreign oil. We had worked our way toward some kind of independence.

Go back to what it was at the time of the OPEC embargo. We were using 47 percent foreign oil in this country. We were at their mercy. We were vulnerable from an economic standpoint, and we were vulnerable from a national security standpoint. An incredible transfer of wealth took place, from all the western nations down to Saudi Arabia, down to the OPEC countries, down to the Middle East. That is what was taking place.

What do we have today? We have a situation where my friend from Louisiana said we were up to 4,500 rigs at one time. Last year, we were at 2,000 rigs. The last report I saw was 731 rigs now.

Now we are seeing increasing dependence on foreign oil again. Foreign oil has now moved back up to 33 percent. Some of the estimates are that we will lose almost 900,000 barrels of production this year.

We are seeing stripper wells being stopped. In 1981, we had 30 new exploratory wells hitting new reserves every week. Last year, we were down to 10 new exploratory wells per week finding new reserves. This year, we are down to three. Does not that tell us something about what is happening? That means the reserves have to drop in this country.

What else has happened? We have the price of gasoline down, and we are all enjoying that, and we are driving more. We have the GSA saying to the Federal buildings, "You don't have to be concerned about the thermostat settings anymore, don't have to worry about that kind of conservation."

So you are seeing energy consumption increasing in this country, at the same time you are seeing reserves go down, seeing a situation where the Federal Government is selling the oil out of the Elk Hill Reserves, one of the greatest reserves we have in this country, owned by the Government, by the major pipelines, where it would be available to us in times of crisis in this country. At the same time, we are saying that we must not put anything more in the strategic reserves in this country. I do not think any of those policies make sense.

In my own State, since December, we have lost 40,500 jobs in the oil and gas industry. For every one we lose in the oil and gas industry, we lost five in other industries. We have lost a quarter-of-a-million jobs. It has gone to 9.6 percent unemployment in Texas. We have 788,000 people out of work in Texas. That is the highest unemployment level in the history of our State. That is what has happened to us, and we are headed for more trouble. We are taking some deep hits.

At the same time, we see in New England some of the greatest prosperity they have had in a long time, and I congratulate them, and I am happy for it. I am seeing some of the lowest unemployment in any State of the Union, and I am pleased. I wish every part of this Nation could prosper and we would all be the better for it. But we have to look to our national securi-

ty; we have to look to our vulnerability in that regard. We are not facing up to that.

I cannot help remember that in World War II when I was a bomber pilot, one of the targets was to knock out the oil supply of the enemy. This country of ours paid a terrible price with respect to human lives.

We made an enormous dollar investment to try to accomplish that objective to bring them to their knees, to see that they did not have the oil, they did not have the gasoline, to run their tanks and to fight their war.

We are headed toward that kind of a vulnerability.

You say, well, let us bring on the alternative supplies of energy. Where do you think they are going to be? Look at the Great Plains gasification project, and that has been a disaster.

Look at Chernobyl and see what that has done to nuclear energy production and trying to use that as a source of energy.

In the tax bill we set out to demolish tax shelters and rightly so. We said those are the tradeoffs that we have to bring about to try to get down to tax rates of 27 and 15 percent. The way we determined activities were tax shelters was to see if they were passive investments where the investor did not really have the risk—where the general partner had it and the limited partner did not have it.

So we said for the oil drilling funds, OK, we will accept that, even though we desperately need more capital in the oil industry to encourage drilling and production in this country and finding new reserves. We will accept that and we will put those limitations on those kinds of tax shelters. But we will say to those who have a working interest, those who are going to invest their money and say, "We will take the full risk; we have a blowout and a well that was going to cost you $1 million, cost us $5 million, we are in there for the full amount," that fellow is put at risk; that is not a passive investment, and so we will give them that kind of consideration and they will have those kinds of charge-offs if they lose.

Why do you have several investors in one well who have a working interest? Because it is a high risk business and you have to spread that risk. So when you go into exploratory drilling you try to get a piece of several wells, to try to average out that risk as you go, but you take the full liability for it when you have a loss. And that is the great difference.

Let's strike at tax shelters. You bet we did in the committee, and we did this for the oil and gas industry.

But I will say to you now, that with an amendment like this you are going to say to an industry that is in deep trouble, "We are going to give you another deep hit." I listened to some of my friends from other parts of the country who have not had the experience in this particular industry and they say to us: "The steel industry is in trouble. We want to go back 15 years and make a special exception for companies that are in the steel industry, and say that you can take your investment tax credits and get a refund for them."

I have not heard anyone on the floor criticizing that, objecting to that, and the point they made was that we need a steel industry in this country with some strength, for reasons of national security, to try to protect our country if we have an international crisis. I believe that. I understand that. I support the steel industry.

But I think having a stable oil industry is just as important from a national security standpoint.

I think from an economic standpoint those States, Louisiana, Oklahoma, Texas, Kansas, and many others, are not sharing in this prosperity today. We understand that. But what we ask of you is not to give us another hit at a time like this.

I think we have dealt fairly in this tax bill. We have looked at the passive interests and we have struck them down as tax shelters, and a working interest does not qualify as that at all. It is truly a working interest, a man is at risk and if he has his losses, he ought to be entitled to take them.

I urge the defeat of the amendment.

Mr. DOLE. Mr. President, I am glad we have had some action in here. I am not sure I like this action but at least it beats a quorum call, not by much, but it beats a quorum call.

I am very pleased to see the Senator from Connecticut wants to clean up this bill. I have a lot of ideas on completed contracts, on R&D credits, on rehab credits, and a whole list of things that do not do much in my part of the country but are fairly important in other parts of the country.

Now, we have a little oil in Kansas, not much. The average well produces about two barrels a day, two-and-a-half, three barrels a day, not very much by standards some are accustomed to when they talk about oil production. And we are not a very big State. We do not have a lot of industry.

But the oil and gas industry is the second largest in Kansas next to agriculture, and, as the Senator from Texas has said, both are in trouble, and in a small State like ours when you have the two largest industries in trouble, you are in trouble.

In 1980 we had about 38,000 Kansans employed in all areas of the industry, that is production, refining, transportation, and marketing. In 1982, it went down to 16,000. Now it is down to 12,000. That is not very many people.

In large States with big defense contracts, they hire that many in one company.

But that is 12,000, 13,000 jobs.

We have several hundred thousand royalty owners and investors participating in production income. The rig count has gone down from about 230 in 1982 to about 30. And I do not think those 30 are working full time. So there is another indication of a drop.

We are plugging a lot of the smaller wells because of the price of oil. We plugged 497 the first 3 months of this year. Again, that is only two barrels a day, maybe. But you add that up in every State that has stripper production—that is about all we have in our State—and that is a lot of production on a daily basis.

I will bet both Senators from Oklahoma can duplicate this and they can duplicate it in Texas where they have a lot of stripper production, not quite so many in Louisiana, but we are talking about wells that produce 10 barrels or less.

I know the media loves to talk about oil and I know what brings Members to the floor. When the media responds about oil, that lights fires everywhere because the media is going to write a good story if you take after oil, if you want to attack oil. Any time you mention "oil" in this town the media is right there. I think they must believe that every well produces thousands of barrels a day, not two barrels a day or three barrels a day or less. Many of the wells in my State produce less than a half-a-barrel a day, and a lot of water, and a lot of expense.

So I just suggest that I do not think that independent oil producers have done any better under this bill. We are talking only about independents in this bill. We are not talking about major producers. So I would not want to leave the impression that somehow oil sneaked into the back room and came out with a big, big plum in this tax bill.

I would guess this is an exception. But there are other exceptions.

If we really want to make the Tax Code neutral, and we made a judgment not to make it totally neutral, there would be a lot of things that would not be in this tax bill and maybe they are all going to be addressed, maybe all addressed by the Senator from Connecticut. Maybe he will move then to strike out the completed contract provisions which means a lot to defense contractors. Maybe he will move to strike out the R&D credit which means a lot to a lot of big businesses. I think it is too rich myself, but I did not raise it in the committee because it is very important to many States in this country.

Maybe he will move to strike out the rehab credit, which is the biggest ripoff in the whole tax bill. You drive

down Pennsylvania Avenue and you see these old facades up here. You see that someone left a screen door and they built a new building around it, and the Government picks up 25 percent of the tab. That program has made more millionaires than any other program I know of, and I do not see anybody writing about it. We ought to eliminate it. We ought to strike it out. We ought to reduce it. That would save at least $1.5 billion a year.

So I am glad we are getting into these important areas.

I hope that if we are going to start down that track we are going to go right down the way. We also exclude from income the cost of employees' group health insurance and life insurance up $50,000. These are big incentives to a lot of insurance companies that are scattered around—maybe even some in Connecticut.

But I just suggest that there are a lot of things in this bill. I have been there. I can give you a list. But I believe the chairman of the Finance Committee and the members who were there on a daily basis, in their wisdom, decided that, well, a totally neutral tax bill was not going to happen, but we did the very best we could.

I do not fault anybody for trying to strike out a provision that does not affect his State. It is not very difficult.

□ 1610

(Mr. EVANS assumed the chair.)

Mr. WEICKER. Will the Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield.

Mr. WEICKER. Did the distinguished chairman of the Finance Committee vote for a provision similar to this amendment in committee?

Mr. DOLE. I do not know if we had a record vote. I do not think he did.

Mr. WEICKER. Well, there was a record vote.

Mr. DOLE. He has just reminded me he did not vote for it.

Mr. WEICKER. And he voted, in other words, for a provision similar to this, to knock it out. So I agree, we should listen to the chairman.

Now the committee will come to the floor, everybody in lockstep, but understand that this exemption only passed by a couple of votes in the committee.

Mr. DOLE. That is all you need. [Laughter.]

We did not want them all. There are a lot of these that only passed by one or two votes in the committee.

But I just suggest that we are going to pass a tax reform bill that is historic. I would guess, as long as anybody produces oil in this country, they are going to be a target. You do not have to produce very much. We have been arguing that every time we have had a tax bill.

I think people still believe that we are out there catering to major oil companies, and they rush in to see if anybody that made a contribution owns an oil well. It is bad, just because you have people in your State or that business, that you should not accept anything if they want to help you get reelected. It is all right to do anything else, but do not take any oil money.

Maybe there was a time years ago when there was a certain guilt by association between politics and oil. But I am just here to suggest that we believe this is a pretty good provision. We have taken out those who are going to try to limit their liability. You just cannot drop $100 in a limited partnership anymore and say that is all it is going to cost.

I doubt if many in this room—I see some in this room—have ever seen an operating agreement that you sign when you buy a working interest. You accept the full liability for anything that happens. If you lose a drill bit or if you have to drill deeper, whatever happens, you have to cough up the money. There is no limited liability. That is out. It was taken out in the Senate Finance Committee bill.

So when you invest your money in an oil venture, you are accepting all the risks and all the liability.

I hope, at the appropriate time, we can table this amendment and get on with the work of the tax bill. But if we are going to start down this road, then there are a lot of amendments coming.

Again, I do not quarrel with the Senator's right to offer amendments. But I think those of us who live in States that are affected—just as he would rise up if we did something that affected his State—ought to speak out. I think there are some of us even outside the oil-producing States—we do not really produce that much—who should speak out. I am sort of a fringe oil State Senator. We do not have enough production for me to qualify as an oil State Senator. But we are glad to have what little oil we have in Kansas to help keep the rest of you warm.

Mr. LONG. Will the Senator yield at that point?

Mr. DOLE. I am happy to yield.

Mr. LONG. Mr. President, just to bring the figures up to date that were mentioned by me and by the Senator from Texas, here is the latest count: where there were 4,500 rigs operating a couple of years ago, that is now down to 686. From 4,500 down to 686. Eighty-four percent of those rigs are no longer drilling; only 16 percent of the rigs are available to drill now. And that is not going to change.

Now, where there was $1.2 million in limited partnerships available, that will be knocked out under this bill. And the capital gains provision that meant a lot to the industry, that is gone, too. And they have got such a low price that nobody who invests in the industry seems to be interested in investing any more.

Mr. DOLE. For anybody who is interested, here is a little story that appeared in the Kansas City Times. I mailed it to all Senators. it is dated May 14 and titled "Oil Industry Is Drying Up in Kansas." It is a fact. It is drying up in Oklahoma. It is drying up in Texas. It is drying up in Louisiana.

I think we have to ask the broader question the Senator from Texas posed: Are we going to be totally dependent on foreign oil supply? And I agree with his view on the Saudis.

It seems to me this ought to be some evidence. It is only a headline, but it tells the story in my particular State. If it is drying up in our State, it is drying up everywhere else, because you cannot make a profit. And, most people, when they cannot make a profit, either shut down their wells or go out of business or do something, retrench in some way, just to keep from going into bankruptcy.

Mr. BENTSEN. Will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. BENTSEN. I was just looking at a study of the CRS where they say that by 1988, whereas we were last year 29 percent dependent on foreign oil, that by 1988, in just 2 years, we will be 50 percent dependent on foreign oil. And that is an even higher dependence than we had at the time of the embargo when we saw the long lines at the gas pumps.

Mr. DOLE. I would just conclude by saying that if we had a glut of oil, then I think we would be in pretty tough shape here trying to defend anything, any incentive to anybody who participated in the industry. We do not have a glut of oil. The Senator from Texas just underscored that.

Mr. WALLOP. Will the Senator from Kansas yield on that point?

Mr. DOLE. I would be happy to yield the floor.

Mr. WALLOP. I just wanted to make a point, because I think——

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Has the majority leader yielded?

Mr. DOLE. I yielded to the distinguished Senator.

The PRESIDING OFFICER. Has the Senator yielded the floor?

Mr. DOLE. I changed my mind.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DOLE. I yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I want to make a point with my colleagues from Kansas and Texas that I think is really important to this argument. This is not an exception. The excep-

tions were taken out. This is a clarification of a rule by which the Internal Revenue Service currently makes its decision as to what constitutes an active working interest.

One, it is the unlimited risk. Two, the working interest owner has to give the approval and an execution of authorization for expenditures without which no funds are expended, including his own. Three, the completion decisions with respect to drilling operations are partly the working interest owner's, to the extent of his percentage ownership in the well.

The decisions regarding the abandonment of uneconomic or marginal wells are his. This is active participation, not passive. The passive limited partnership interests are out.

The review and concurrence with respect to oil drilling and deepening operations or rework or plug-back operations, that is part of the obligation of the working interest. The right to take production in kind instead of sell it off, the decisions with respect to subsequent operations for additional development of the lease, all of these things are active rights and duties of a working interest owner.

You see, this is the IRS's judgment now as to what constitutes a working interest owner.

Now, the last point I want to make, which I think was lost by the Senator from Connecticut, is that you are so much involved in this thing that you are required, as a working interest owner, to be subject to self-employment tax.

Now, we took out the shelter. This is no grace to the oil industry. This is a recognition of a participatory obligation contract, by way of a joint operating agreement. A working interest holder is totally unlimited risk and is part and parcel of the daily decisions of making that well go.

Now, I will speak in a little while about the various kinds of things we could have done to provide a tax relief, but this is a clarification. This is not an exception. This is not a special exception. This reflects the way the IRS views working interests today, as sources of active income.

We were frightened, in the course of revamping this Tax Code, that that concept would be lost. So I think it is important to make the point that this is not a gift to the oil industry. This is the way they do business. And the people who do business this way are at risk. They are active participants. They are totally involved. They must pay self-employment taxes.

□ 1620

That is not true of any of the other active passive distinctions we had arguments on the Finance Committee about. This is not an exception. Does the Senator agree with that?

Mr. DOLE. The Senator is correct. I think he made a point that at least I overlooked. This is not an exception. I think there are exceptions. This is not an exception. This is a clarification. We had a difference of opinion in the committee. Some are willing to go so far as to say clarification. Others are willing to go a little further—I think Senator BOREN, and he can explain in detail. The Senator is absolutely correct. This is not an exception. This is not something new that we are putting into the Tax Code. We do not want anybody, least of all the media, to feel it is some new exception written in for the oil industry.

I promised to yield briefly to the Senator from Texas, and then I will yield the floor.

Mr. GRAMM. I would like to identify myself with the remarks of the senior Senator from Texas. This provision of the Tax Code is not a special break for the oil industry. It is justified because first, capital is at risk, and people are involved in management; and second, because this amendment would decimate an industry that is both already hurting and is critical to national security.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, many of the arguments have already been made. But I would like to get up and speak as a Senator who like, I believe, the Senator from Connecticut, has not a single oil well in his State. I might say a number of our farmers tried pretty hard at one point up in Grant County, and I believe they even interested a few people, raised a little money, and got some money from some of the city folks. But they never found a drop.

But I stand to oppose the amendment of my friend from Connecticut, to say that I think the oil industry in the United States is, as the Senator from Texas just said, of vital national interest. When I looked into this some years ago, I found interestingly that there were 525,000 producing wells in the United States. A number that just flabbergasted me—525,000. Perhaps today there are somewhat fewer. But if you put that into oil production the average well in the United States produces 16 or 17 barrels. Out in Kansas, they produce on the average of two barrels a day, as the Senator from Kansas says. There are just tens and scores of thousands of wells in western Pennsylvania, and western New York. The average production of them is one-third or one-half a barrel a day.

If you compare that to the situation that exists for instance in the Middle East, where the average well I believe produces 10,000 barrels a day, you can very readily see the difference in the so-called lifting cost, the difference in producing a barrel of oil in this country and scooping it up almost in some part of the Middle East where the average well produces 10,000 barrels a day. Obviously the costs on a 10,000-barrel-a-day well are far, far lower than they are on an average well in the United States that produces 16 barrels.

Add to that the interesting point that the Senator from Louisiana points out—that with a lower tax rate you have in effect increased the risk. I think that he supports the idea of a lower tax rate as much as I do. But when you combine the lower tax rate to the very low price, the fact that exploration in the United States has already been quite intensive, that the average well in the United States produces so little oil compared to an average well in the rest of the world, that the cost per barrel in this country are particularly high, I am not offended as a result if there is this provision for the oil industry inasmuch as the working interest is required. And the basic definition of a working interest includes general liability, not a restricted liability.

I will vote against the amendment of the Senator from Connecticut.

I must tell you that I have never had a penny's interest in an oil well. I think I owned at one time or another some stock in one or two oil companies but nothing very big.

I think that the oil industry in the United States is really of vital national interest. I do not think it should be treated in the manner that is unfair to other industries. I believe that needs to be protected.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I just have a couple of other short points to make.

Yesterday, the Senator from Connecticut said:

> Tell me the people from Connecticut who go down to invest in those things and go down there and make those decisions.

Mr. President, this unlimited risk investment lost its attraction in the first year of the Reagan administration when the maximum tax went from 70 percent to 50 percent. In those days we were betting a 30-cent dollar against the possibility of great income and the unlimited side of the risk was not such a big bet. You could have supposed that you were going into a drilling deal that somebody said was going to cost you $50,000, and end out with something that was going to cost you $100,000, because they lost circulation, had a variety of problems, maybe a fire, any number of things, and no oil. And $100,000 cost you $30,000, after tax, still not as much as the original bet. So that attraction went away when you dropped from 70 to 50

percent. Even at 50 percent, there was a certain attraction of betting a 50-cent dollar against an unlimited risk, if you were a very well-off person and you were looking down the road toward the possibility of some riches with oil at a price of $30 or $35 a barrel.

Now, oil at the price of $12 to $13 a barrel, and a maximum tax rate at the conclusion of this bill of 27 percent, you are now betting a 73-cent dollar against a thing that will not return for the kinds of risks that once were thought to be a part of an investment like that.

This is not the so-called magnet shelter. It is indeed no shelter at all. Under the rules of the IRS, this is a consistent view of this thing, and I will just state it again, the IRS has always, historically, held that working interest owners income was active income. They subjected it then and will subject it now to the self-employment tax.

Let me just suggest to the Senator from Connecticut what the nature of that risk is. In 1985, 73 percent of all wells drilled were wildcat wells, 20 percent were developed wells, that is they were in a field where people knew that oil existed, and 29 percent of all wells were dry holes.

That is not a shelter. Let me tell you that the accountant who runs down and tells everybody that this is a great way, my friend, to shelter your money, and you will be wealthy, will not be an accountant very much longer. There are very much more useful things contained in this bill, even contained for the insurance industry in this bill that do not present the risks and offer greater returns.

Mr. WEICKER. Will the distinguished Senator yield for a question?

Mr. WALLOP. I am happy to yield.

Mr. WEICKER. The distinguished Senator is on the Finance Committee. Am I correct?

Mr. WALLOP. That is correct.

Mr. WEICKER. I am not. I did not write this bill. But here it is.

Mr. WALLOP. As the Senator can tell we have been up a night or two. Go ahead.

Mr. WEICKER. In big black print here, title 14, "Tax Shelter Limitations; Real estate interest limitations." Then you go on here, and we know what this exception is for working interests in oil and gas property. First, it comes under the shelter tax. Second, in the small print it says, "Exception for oil and gas." Everybody is going around here saying this is not a shelter, it is not an exception. This is not my language. This is the language of the bill. It is in the shelter section. It says, "Exception for oil and gas."

Let me say one thing to my good friend from Wyoming. I think he is entirely proper standing up here representing the interests of his State. No problem. At issue here is not the importance of the oil and gas industry, or the importance of taking risk, or any of these matters. That is not at issue here. I would not dispute that. We will get on to that later.

What is at issue very simply is oil and gas goes into the bath, into the tank with everybody else. All I am arguing against, if we are going to have a section on tax shelters there should not be that little title exceptions for working interests in oil and gas. That is all I am arguing, not the broad principle as to what my good friend from Wyoming is stating. I have no argument against that. Very frankly, I think not only in his industry but other industries, industrywide there ought to be notable exceptions.

Yes, the oil industry is in dire straits. So are textiles, and I go right down the checklists. Steel, you know, right down the checklist.

Mr. WALLOP. Is this a question?

Mr. WEICKER. Farmers.

Mr. WALLOP. Is this a question for which I yielded?

Mr. WEICKER. The Senator is correct. I have gone beyond the bounds of a question. But I did ask the question as to whether or not the Senator who signed onto this bill agrees that this is first, an exception, and is within the section of title tax shelters.

Mr. WALLOP. I say to my friend from Connecticut, along with every other member of the Finance Committee, when we signed off on this bill it had 25 days of drafting and printing in front of it. I did not select the title for the section. And I certainly did not select the characterization of it within that title.

□ 1630

I am just telling you that historically, the IRS has concluded that working interest income is active income. That is nothing new. Working interest income is active income to the extent that they required people who had it to pay self-employment tax. That is history. That is not what is in the tax bill, which the Senator can see and the rest of us can see is 10 pounds too heavy. Where they put things in there is the choice of the staff, not the members of the committee. I think the members of the committee would be happy to admit that.

I yield the floor.

Mr. BOREN address the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, in the Finance Committee this question was asked and perhaps I can shed some light on the questions asked by the Senator from Connecticut. Like the Senator from Wyoming, I did not do the drafting in terms of what was put in in bold type and what position it was put in the bill.

But I offered this amendment not only as a Senator from Oklahoma, not only as a representative of a region that has oil and gas production, but believe it or not, Mr. President, there are some of us who believe that just because we come from a State like Oklahoma which happens to produce oil and gas, that we still have the capability to act in the national interest of all the people in this country.

When I offered this amendment, I felt, Mr. President, very sincerely, that I was not simply standing up for a region of the country that is suffering, that I was simply not standing up for fairness to an industry that was in trouble, but that I was trying to contribute something in the debate about tax policy that was in the interest of all the people of this country whether they happened to live in New York, Connecticut, California, Alaska, or Florida.

There are times when we need to stand together as Americans and set aside regionalism. It is difficult for me to understand, and I have expressed this feeling on the floor before, and I heard the Senator from Louisiana discuss it, why when it comes to oil and gas we somehow lose our rationality not only in this body but in other forums of this country.

There are people having a hard time in my State today. I happen to live in a town where in the latest utility count we are apt to lose 10 percent of our population in a 12-month period.

I come from a State that has experienced 20 bank failures over just the last few months.

I come from a State that, without having had its revenues adjusted by the State legislature without new taxes on the people, would have experienced a 40-percent decline on all the revenues collected by the State government in a 3-year period of time.

We have not had that happen in this country, Mr. President, since the time of the Great Depression.

As I expressed the other day on the Senate floor when we were discussing trade adjustment assistance for those who have been unemployed in the oil and gas industry because prices are being manipulated not by market forces but by political decisions made in other parts of the world over which we have no control—as I expressed then, I find it hard to understand it, those we have aided in other parts of the country. I voted for that assistance, I voted for the trade adjustment assistance to help those who were unemployed in other regions of this country. I do not understand the difference in terms that a worker in the textile industry or the steel industry or the shoe industry or some other industry has, when he is unemployed, is somehow more virtuous in his inability to meet his house payments or pay for the education of his children, that somehow that is more worthy of our

consideration than the inability of that blue-collar worker on the drilling rig to pay for his children's education or meet the mortgage on a home that he is trying to buy or keep for his family.

But let us set aside the regionalism. The Senator from Connecticut is a good friend of mine. He knows I have a great deal of respect for him. I have seen him on many occasions on this floor rise above a regional point of view and look at something from a national point of view. I appreciate that. We have had many discussions in the past. He is an outstanding spokesman for small business in this country, all across the country. He has been a vital force in making sure that our smaller economic enterprises are treated fairly.

I want to talk now not about regional interests, not about the specific national security interest that is involved here in terms of energy production levels in this country, but let us talk about the national interest for a moment.

First of all, as has been pointed out, the rig count in this Nation has fallen from the level of 4,000 all the way down to below 700 for the first time in the history of the records that have been kept on rotary rig counts in the United States.

Mr. President, I have graphs which frankly show what has happened. Here is a graph showing the rig count over just the past 5 years in this country. It has now gone completely off the chart, the first time it has ever fallen below 700.

When this chart was put together only 2 weeks ago, we felt that 700 was the lowest level it could possibly go. It has never gone below that figure since they have been kept.

Now we have dropped all the way off the chart, down to the level of 686.

We have to go back to the period of World War II when we were unable to get the steel and the other materials necessary to build drilling rigs to even approach these figures. Not since March 1942 have we come close to equaling these kinds of figures.

Let us talk about the consumers in this country, the consumers who live in Connecticut, consumers who live in New York, consumers who live in New Jersey or in California. How in the world is it in their interest for us to see the production in this country absolutely decimated?

This subject has been on national television, and they have stated that they expect the oil prices to recover in the next year or 2 or 3.

In fact, if they succeed in squeezing out 2 or 3 million barrels of production in this country and making us totally dependent on other sources for the petroleum products, they will be able to virtually set whatever price for energy they want.

Surely we must have learned something from our experience of the last decade. Surely we must have learned what happened to this Nation when we were 47 percent dependent for all of our oil needs in this country on foreign sources. Oil prices did not drop that low at that time. They were not at $10 and $12. Oil prices had their escalation during the period of time in which we were dependent on overseas sources.

If we want to make sure that the consumers of this country are protected against the rapid unfair increases in prices, the best way to do that is to assure that we have enough productive capacity here in the United States to assure that we are not totally dependent upon others for the sources of production.

Let us not forget that in a period of 2 months because of political decisions that were made by the OPEC nations the price of oil was cut in half, in 2 months. What could be done on the downside by political decision can also be done in terms of price increases in the future by political decision. Those same nations can get together and set their own production quotas, manipulate the prices on the upside as much as they have been able to manipulate them on the downside. We must not allow, for the national interest, for the American consumers, to be dependent, to become dependent, on the OPEC nations and then make themselves the possible hostages of that kind of manipulation in the future. When will we ever learn from our own experiences? When will we ever in this Nation look beyond this week and this month to look back only 1 or 2 years to see what can happen to us even only 1 or 2 years in the future?

But there is another important point, and I think it is something which has been missed thus far in this debate.

We are talking not only about domestic energy production. This issue really goes to the heart of the structure of the oil and gas industry in this country.

□ 1640

I hope that my friend from Connecticut will hear me particularly on this point because, as I said, he has been a spokesmen for small business in the forum of the U.S. Senate for many, many years. Remember that the independent producers who get out and drill the wildcat wells and open up the new fields do not have internal large sources of capital with which to operate is to obtain capital from other sources. I ask my good friend from Connecticut, if the top marginal tax rate is 27 percent and if a person, to invest in an oil and gas enterprise at only that low marginal tax rate, is subject to all of the risks—first of all, the risk of having a dry hole, over a 70-percent risk on a wildcat well. Then, if he invests in a working interest as opposed to a limited partnership, he is subject not only to losing the amount of money that he has put into this enterprise, he is subject to being liable for massive amounts of potential damages in terms of environmental damage. He can lose far more.

Let us say he puts in $25,000. He may be liable for hundreds of thousands of dollars of environmental damage in addition to the amount that is invested and then those with whom he is associated are going to come to him and say, "Well, we may have to drill 5,000 feet deeper; that is what the geologists tell us. You come up with $25,000 more or you have lost the first amount of expertise. We need environmental engineers as well as geologists and other kinds of experts," and then put in additional funds on that.

Then at the end of all that, with only a 27-percent tax rate out here with which he can go into something with far less risk, with an assured return, and only be taxed at 27 percent—he is going to take all of those risks, subject himself to all of that liability, and then, when it is all said and done, if they hit a dry hole, he is going to be told "You cannot deduct your real losses, you have lost $25,000 but you cannot deduct it against your ordinary income even though you have lost your money." Who in the world is ever going to invest with an independent producer to explore for oil and gas ever again in this country?

I can tell you what the independent producers say to me, Mr. President. They say it is the end of the independent oil and gas sector in this country if we were to knock out this provision and ask people to invest their money with all of these risks, with all that liability, and then not allow them to deduct their real, honest to goodness, out-of-pocket losses if they hit a dry hole.

That is what this debate is really about. It amazes me, Mr. President, that there are those who have come—and it was true before as we debated this issue—and time and time again have said, we do not want to give more power to the large international oil companies, we do not want the energy industry of this country dominated by a few giants; we do not want to have these large companies—be their name Exxon or Mobil or any other—to dominate the entire energy production sector in this country.

Well, Mr. President, if you are concerned about the structure of the oil and gas industry in this country, if you want to see some competition remain in oil and gas production in this country, if you want to see some small independent producers survive so that the American consumer will

not be serviced solely by a few giant international oil companies, then you had better vote to table this amendment. Because never again will we have people investing with independent producers.

That is what this amendment is all about: Do you want independent producers to be able to survive in this country? Do you want people to continue to invest with individual independent oil and gas producers in this country? Or do you want to have only a few giant producers left?

The large international oil companies do not go out and sell working interests in their oil wells. They do not go out and ask you to invest $25,000 or $50,000. They generate all that capital internally in their large companies. They have marketing and they have refining and they are selling their gasoline. They have integrated operations from which they can make profits even when it is not profitable to drill and not profitable to produce. They have other ways of making money. The independent producer has no other way. If he is going to drill that oil well, he has to go out to 10 or 15 or 20 people who will invest their money and participate in drilling that well.

Then, if we, in the name of fairness, put something in the tax bill and say, "Yes, invest your money in that independent oil exploration project but if you lose it and drill a dry hole, you cannot even deduct your loss"—is that fairness? Mr. President, if we were talking about other industries where those kinds of risks were involved, if this had some title other than oil, I do not think it would get two votes on the floor of the U.S. Senate.

Let me urge my colleagues: Think about what is in the national interest. Think about the structure of an industry. Think about keeping competition within the oil and gas industry. Think about the fact that limited partnerships, those that have limited liabilities if they are investing in oil and gas, are treated just the same. There is no exception in this bill, I say to my friend from Connecticut, for limited partnerships in the oil and gas industry. We are not talking about limited partnerships. We are talking about investments in working interests where those involved jointly and severally are liable and they must take substantial risks and make substantial decisions.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield for a question.

Mr. DECONCINI. Mr. President, I say to the Senator from Oklahoma that he makes a very convincing argument that sometimes you ought to be able to invest money and if it is a legitimate investment and you lose money, you ought to be able to deduct it from your income. That is what this does, as I understand it. Well and good if that is what we have to do for the oil industry. But how does the Senator—and I am sure he is anxious to get this question asked and he did not put me up to ask it—justify providing it to only this industry and not provide it for the textile industry or the automobile industry or the real estate industry, it seems unfair.

If we are going to have a tax bill that is going to provide nonactive losses, why should it not be provided for every industry?

If we are not going to provide it for every industry and we are going to provide it to the oil and gas industry, it seems to me the Senator from Connecticut has raised a very good amendment here and we ought to treat this thing in fairness. Just as my friend from Oklahoma said, let us be fair. This is not fair.

Mr. BOREN. Mr. President, I would be happy to respond to the question, than I shall yield the floor.

I am glad my good friend from Arizona asked the question. He goes to the heart of a misunderstanding that exists among many Members of the Senate about the difference between the oil and gas industry in this provision and other industries. I share his concern that even as this bill is now written, there are several industries, many industries, that potentially are impacted in a way in which people who make investments, real out-of-pocket investments—we are not talking about paper investments—and who experience real economic loss will not be able to fully deduct that real economic loss. I think that is a problem. It is a problem which we tried to deal with in committee. It is a problem, I am sure, with which we shall try to deal in the conference committee to make it fair. That is an overall generic problem that we have.

But let me make it clear, when it comes to limited partnerships, where you are really putting at risk only the amount of money you invest in the profit, if you invest only $25,000, you stand to lose that $25,000. Limited partnerships—and we have those in the oil and gas industry as well as in the real estate industry and others—the oil and gas industry are treated exactly like limited partnerships in every other industry. That is not the issue. Limited parnerships, be they oil and gas or other limited partnerships, are treated exactly the same in this bill as now written as they would be if they were in any other area.

A working interest investment is not the same thing as a limited partnership investment in an oil and gas well. You can invest as a limited partner or you can invest as a working interest.

Mr. DECONCINI. If the Senator will yield, I understand the difference, but when it comes to real estate, just to pick an industry, if you are an active investor in the real estate business, the limit of the carryover loss that you can take, as I understand it, is $25,000 outside of the actual business that you are in. Why should the oil and gas industry have anything more than $25,000?

Why does not the $25,000 limit, phased out over between $100,000 and $148,000 or whatever it is—why should that not apply in this instance?

Mr. BOREN. I just go back to the difference. Maybe I have explained it before but maybe I can explain it differently. The obligations, the risks that are being taken are substantially different. When you hit a dry hole, there is an asset that is left. There is nothing you have left to sell. It is gone. Your money is gone. You do not have a building, you do not have anything else. You take very substantial environmental risks.

As you go through the process, it is not like a real estate proposition where you have a budget in advance as to how much you are going to build, what your costs are. You have a situation where you start drilling a well, they you do not know how deep you have to go. They come back and say, "You have $25,000 invested; if you want to continue, you are going to have to put up more money." There are additional risks as you go along at each particular point in the project.

□ 1650

Let me again say to my friend from Arizona, I do not think that he would believe it would be in the interest of the United States to be dependent on foreign sources for energy, but I do not believe he would think it in the national interest that we should be dependent only on four or five giant national oil companies to service the energy needs of our people. I think he would want to see an independent sector survive. All I can say to him is this: In the judgment of everyone in the industry with whom I have talked—I am talking about the independent producers—they say that once you lower the tax rate to 27 percent, with an industry that has this level of risk and this level of liability, particularly as far as the working interest is concerned, you will simply shut off all of the outside development possibility in the independent sector. The independent sector does not have enough capital on its own to drill the wells.

Mr. LONG. Will the Senator yield?

Mr. BOREN. You will leave us totally in a situation where only the large international oil companies will be able to operate because they generate their own capital. They do not go out and seek developments from individual citizens. They generate their own capital from their own operations.

I think it would be a tragic mistake for this country to decide—and this debate really is a debate about the structure of the industry—that we want the industry to be totally dominated only by a few giants and leave no room for the independent sector to operate.

Mr. LONG. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield for a question.

Mr. LONG. Mr. President, the Senator from Arizona asked a pertinent question to which I would like to help react.

The Senator asked, why do you not treat the oil and gas industry the way you treat the real estate industry? Let us just talk about this situation. It is difficult to justify what this bill does to the real estate industry because it says that with regard to nonreal estate partnerships, if a person is actively engaged in the operation of that endeavor, it is active income. But not in real estate. In real estate he is subject to a $25,000 rule and that $25,000 rule is subject to a "mom and pop" limitation. These limits apply even if he is actively engaged in operating real estate. Rental real estate will still be treated as a passive activity, even though he is the one running it. But he can have the benefit of up to $25,000 of real estate loss against other income he is making, provided that he is not making over $150,000.

Let us take the case of a couple who have a building and they are living in it, operating it and taking care of it. If they are not making more than $100,000, they can claim up to $25,000 of losses in that rental business against some other income they may have. But if they have more than $150,000 of income, as the Senator so well knows, they cannot claim even the $25,000 amount. It all has to be regarded as passive, and they can only deduct those losses against income in later years from that particular apartment building that they are living in and managing.

Now, that rule does not apply to anybody else. It only applies to rentals. In other words, they cannot deduct but $25,000 of their losses, and even that is subject to a "mom-and-pop" rule. If they have more than $150,000 of income they cannot deduct any of it, not a nickle. It has to be put over with the passive income. And then if they do not have enough passive income against which they deduct their passive losses, they cannot deduct it, period.

That amounts to singling out the real estate industry for special unfavorable treatment that does not apply to anybody else. And it is difficult to justify.

How would you justify it? Well, you justify it because that is the area where the tax shelters are more effective than any other area. If somebody comes to you with a tax shelter, if you have a reasonable chance to make profit in the long run but you get a lot of loss in the early years, the odds are he is going to be showing you a real estate tax shelter.

That is where the tax treatment seems to be the best and that is where we have the most complaints about somebody making a lot of money and paying no taxes whatever. So that industry is singled out and given tax treatment that is less favorable than any other industry under this bill.

So here are those people getting rich. They are making lots of money. The tax treatment is so favorable as it stands now that on a tax basis they are even justified in building an apartment building when they cannot rent any apartments. The tax advantages are enough right now where they can justify building emplty office units and empty apartment units. Hopefully, in the future, they can rent them. But rightly or wrongly, this bill picks out this industry and hits it harder than any industry in this bill. And they get special treatment, I say to the Senator, special adverse treatment that others do not get.

The Senator asked, "Why do you not so treat the oil and gas industry?" Because we are all broke anyhow. Eighty-four percent of our rigs are down. More than 80 percent of our workers are out of jobs.

God knows, we need the product if we are to be energy independent, but that industry is suffering very badly and you do not have to go beyond the State I represent to see it. We have more unemployment than any State in the Union. A while back we were in great shape. Well, the price went from $40 down to $10 and we are in desperate condition right now. The industry is adversely affected and there are at least two or three provisions in this bill that adversely affect even that industry, the most depressed in the United States.

But why must you pick out the industry that is doing the best where the tax shelters are of the greatest concern and say, "Now, having picked that one out for special treatment"—which is going to mean that a lot of these real estate ventures will not be continued—"then take the one that is doing the worst in the entire United States and let us be sure we treat him the same way we treat the one that is doing the best." I submit that does not make any sense. We say that you ought to treat that one like those in between.

Mr. BOREN. Mr. President, I thank the Senator from Lousiana for his answer, and I think it is an excellent one. At the same time I think the Senator from Arizona has raised a point that should be heard. He and I have discussed this before. I think he knows that I have some sympathy to seeing fairer treatment for the real estate industry. But I think, as the Senator from Louisiana has said, this is not the time to take an industry that is already flat on its back and make sure that we absolutely destroy it——

Mr. LONG. Will the Senator yield?

Mr. BOREN. And make it incapable of acting in the future. When you get down to it, again we get back to the problem of financing.

Mr. LONG. Will the Senator yield at this point?

It may well be, I say to the Senator, it may well be that this bill is too harsh on the real estate industry. It may well be that a lot of these real estate people are being the target of something that is not fair for them because you really have somebody else in mind. But you are doing it in spades when you do it to the oil and gas industry at this point.

Mr. BOREN. I agree with the Senator from Louisiana. Because one thing is unfair, that is not reason for doing something that is two or three times as unfair to an industry that is already, as I say, on the road to destruction. We have to again consider the availability of financing. As I mentioned, I have come from a State that has lost 20 of its banks over the past few months. I can tell you that it is almost impossible to get bank loans in this day and time for the purpose of drilling exploratory oil and gas wells by independent producers. There is much more of an inclination to make loans on real estate. There are buildings. There is collateral. But you simply cannot raise the capital, you simply cannot raise the capital if you want to keep an independent sector alive in this country. And that is what we are debating, shall we have an independent sector or not, or shall we allow it to be destroyed so that the American consumer will be the absolute hostage of two groups, foreign producers and huge international oil companies, a few giants that will survive this operation. I just simply submit to you it is not in the national interest to leave the American consumer at the mercy of only those two groups.

□ 1700

Mr. PACKWOOD. Mr. President, there have been a lot of terms thrown around here, many of which are confusing: "at risk," "working interest," "limited partnership," "active and passive interests," "limited liability."

I want to explain what we have in this bill and why it happened. The Senator from Connecticut [Mr. WEICKER] was correct. I voted against the exception for oil and gas in committee. However, I am also committed to stand against amendments that will undo the greater good in this bill. I

want to explain what we have done and why.

This bill was passed about 12:30 in the morning. At about 10 or 10:30 at night, it was touch and go whether there would be any bill at all.

Present law allows about $50 billion in tax shelters that have been closed by the bill. A tax shelter is a device that people can invest in, and because of up-front depreciation losses, paper losses, interest losses, other losses, they are able to shelter their regular income from tax.

Suppose a person of wealth puts $100,000 in a venture. For reasons that do not need an explanation at this time, the venture generates losses that you can use to offset against your other income. That would reduce your tax liability substantially.

That is what causes the stories like "The Treasury Department announced today that 1,500 people with incomes in excess of $200,000 a year paid no taxes last year." Each Senator here goes home to visit, and each of us hears the question that comes up about tax reform: "Why aren't they paying? I'm making $22,000 a year and pay $3,000 in taxes, and they don't pay anything."

That is the effect of tax shelters. The $50 billion that we raise from closing tax shelters was made up of roughly $20 billion in capital gains and $30 billion from denying shelter losses—in real estate, oil and gas, cattle feeding, whatever else. Of the $30 billion, about $4 to $5 billion was raised from oil and gas. That is the background of what the shelter industry is: 50 billion dollars' worth, where you have millionaires paying no taxes.

What have we changed? People shelter their income by entering into limited partnership or other investments in which you have no liability for anything beyond the amount of money you put up—$10,000, $15,000, $100,000. It does not matter if the building collapsed, or all the employees are burned because of negligence, or the oil well blows up. You are only liable for what you put in. That concept is known as limited liability.

However, under the present law, even though your liability is limited, a taxpayer can still deduct all these artifical losses against his regular income. In many cases, a taxpayer can deduct losses far beyond liability the taxpayer has in the venture. That is what we are trying to change in this bill.

Currently, deduction of losses applies to all shelters—oil and gas, real estate, cattle feeding. They are all treated basically the same.

Now we come down to the bill. The bill says that if you invest in a limited partnership or any other investment in which you are a passive investor, you cannot use your passive losses to shelter your active income. That is the key difference between the present law and the bill. The present law: Limited partnership, deduct your losses against unrelated income. The bill: Limited partnership, you cannot deduct your losses against unrelated income.

There are other investments with unlimited liability. This is where you may have put up only $10,000 but you may be liable for a lot more than that. Maybe you have $10 million of insurance on your building or oil well. However, if you run over the $10 million, you are responsible. That is known as unlimited liability.

Here is where we made an interesting distinction. I did not vote for the distinction. I thought the distinction was wrong. However, the committee decided that taxpayers owning investments with oil and gas—typically called a working interest, but involving the concept of unlimited liability—could still deduct the losses of that oil and gas venture against his unrelated income. However, losses from any other tax shelter with unlimited liability could not. It does not matter if you own a building that falls down because of negligence. Even if you are responsible for this money, you still cannot deduct those losses against other income.

So the Senator from Connecticut is right in that oil and gas has been given a special exception that does not apply to any other tax shelters.

The Senator from Oklahoma would argue that the reason is that the oil and gas industry is extraordinarily depressed. I have a depressed timber industry. There is a depressed copper industry. There is a depressed textile industry. But here is what happened about 10:30 at night, when this bill was either going to pass or not pass.

We passed out the most extraordinary bill, from the standpoint of the average American, that we have seen in half a century. It is easy to look back in retrospect and say that when the final vote came, it was 20 to 0. But at 10:30, 2 hours before the bill passed, I was not sure that we had the votes to pass the bill. Several Senators indicated that unless they got this working interest exception for oil and gas, they would not vote for the bill.

The oil and gas working interest exception is worth about $300 million a year. Bear in mind that the bill raises $4 to $5 billion over 5 years from oil and gas shelters, even with this exception. The exception is worth about $300 million, because even in oil and gas, we have cut shelters down significantly.

The question became this: Would we risk the whole bill, a bill closing $50 billion in shelters, shifting about $105 billion of taxes from individuals onto corporations, putting 85 percent of all Americans in this country at a 15-percent tax bracket or lower, closing the loopholes for corporations—closing the loopholes that allow General Dynamics and General Electric to pay no taxes even though they have billions and billions of dollars of profits? Were we going to risk all that in order to keep working interests out of the bill?

I was willing to run the risk that we could eliminate this special exception for oil and gas and still get the bill. My gut intuitive judgment told me that when push came to shove, the Members would not refuse to vote for a bill that by this time the press was already recognizing as an extraordinary boon for America. But that was a judgment call.

There were members of my so-called core group, the working group of Senators that had been working with me day and night on this bill, who felt differently. They feared that the handiwork that we had put into the crafting of this bill would all come down over this $300-million-a-year issue of working interests in oil and gas. So by an 11-to-9 vote, we made the exception for oil and gas. I was one of the nine. Senator BRADLEY was one of the nine.

With that exception taken care of, Senators who were worried about this bill fell into place, and it passed, 20 to 0.

□ 1710

Those of us on the committee then said, "All right, we have made our decision." Senator BRADLEY and I and the others lost on this issue.

We are now going to stand behind this bill, and we are going to stand against any significant amendments that will undo the bill on the floor. We agreed with each other that in the spirit comaraderie we would do the best we can to pass this bill as is.

So when the vote comes to table this amendment, I am going to vote to table it.

I do not think the exception is justified. I think that oil and gas would be able to attract capital without this exception. But having come this far and now being only a few days away from passing a bill that will be the most radical, the most significant forward change in 50 years in the tax law of this country for the average American, I am going to stand with the committee against eliminating this provision, even though in the committee itself I voted on the other side.

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. PRYOR. Mr. President, I appreciate the Senator yielding to me.

Mr. President, I would like to comment for a moment or two about the debate behind closed doors on this provision relating to working interests in oil and gas properties.

I think the chairman, in very technical terms, has really done a spendid job in telling us how we got from point

A to point B in placing this particular amendment into the tax reform bill.

But, I think it is very difficult and maybe impossible for the distinguished Senator from Oregon, who shepherded this bill all the way through to a 20-to-0 victory to describe the intensity by which this particular amendment was debated and ultimately approved on an 11-to-9 vote.

It is what I call, and I say to my friends from New Jersey, Oklahoma, and Connecticut, a scorching debate. I imagine that debate probably lasted 3 or 4 hours. When this issue was resolved, it was resolved in the best way that our democratic process can resolve any question. It was voted upon. It was adopted, and it is a part of this bill.

Today, I rise in opposition to the amendment offered by the Senator from Connecticut to strike it out.

Now, Mr. President and my colleagues, just one quick moment for a little story that relates to this industry. I had the privilege 2 weeks ago of being invited to the State of Oklahoma, the home State of our good friend Mr. BOREN. There were 700 people in this beautiful dining room to benefit the Diabetes Association. It was a toast and roast of Senator BOREN.

Mr. President, in seriousness I never will forget the comment of the president of one of the banks in Oklahoma. This gentleman rose up that night and he said, "Anyone in this ballroom who will open a $1,000 checking account in my bank Monday morning I will either give them a set of dishes or an oil rig." And he said, "The problem is I think we are going to run out of dishes, and I do not think we are going to have any takers on the oil rig."

I say that, Mr. President, simply to demonstrate the position at this time of the oil States. We produce some oil in Arkansas, not anywhere near to the degree of my friend from Oklahoma and my friends from Louisiana and Texas, and others. But, this is one of those times when, yes, there is controversy, and, yes, there is charge of special treatment, but from time to time we have to recognize that we have to look at some mechanism and some way of providing special treatment to special problems, and today this particular industry is in an extremely and critical situation.

Mr. President, I oppose the pending amendment, offered by the Senator from Connecticut [Mr. WEICKER], and I urge my colleagues to reject it.

Mr. President, this amendment is an attempt to eliminate working capital flowing to a very critical industry to our Nation, and to the State of Arkansas. Our domestic oil and gas industry is vitally important to our Nation's economy and national security, and at this time, it is having great economic difficulties.

Because of the present economic difficulties, and because of the importance of this industry to our national security, the committee bill contains rules dealing with so-called working interests in oil and gas properties as they relate to the passive loss rules. Additionally, this rule was adopted by the committee since working interests in oil and gas properties are different than partnership interests in other types of business activities.

It is simple, Mr. President, a working interest in an oil or gas well is not a passive investment. It is an extremely active investment. The holder of the working interest bears the entire cost of development and operation of the property. That person must make all decisions relating to the development of the property, is on the hook for tort liability in the event the well blows, and has responsibility for additional costs in the development of the well. In short, this is anything but a passive investment.

Under the committee bill, losses and credits from passive activities will generally be disallowed against other income of the taxpayer, subject to a 4-year phasein. While I have concerns in the area of the passive loss rules, particularly the phasein rules I believe they should be over a longer period of time—I believe the committee's rule for working interests in oil and gas properties makes sense from a tax standpoint, and from an economic standpoint.

For all of these reasons, Mr. President, I urge the Senate to reject this amendment. It could not come at a worse time for our independent oil and gas producers. These are the people who explore for oil. Without them in business we will be forced to rely more than ever on imported oil, and endanger our national security. I do not believe this is a wise step, and I hope this amendment is overwhelmingly rejected.

Mr. President, I have nothing further.

I am glad to yield to my good friend from New Jersey, Senator BRADLEY.

The PRESIDING OFFICER. The Chair does recognize the Senator from New Jersey.

Mr. BRADLEY. Mr. President, when we go back to our States we have always gone on our local TRV interview shows and we are on for a half hour and they ask questions about what is happening in Washington and we give them the answers. Then it is broadcast for the home folks, and sometimes you tape that show on a Wednesday or Thursday or Friday and then it is broadcast on Sunday at about 10 a.m. prime time.

I was on one of those shows not so long ago and recorded on Thursday night and it was broadcast on Sunday afternoon. My daughter, who was 7 years old at the time, was in the room and was glad to see her father come on television. She had a little friend there, and they started to walk out of the room. I said, "Where are you going?" She said, "We are leaving the room. You are on TV. You will probably only talk about loopholes."

I guess I have fairly single-mindedly talked about loopholes in the last couple of years. I have talked a lot about oil and gas loopholes.

So let me say to the distinguished Senator from Connecticut that I agree with him on the merits of this working interest amemdment. I offered the amendment in the Finance Committee. In fact, I offered a second amendment on working interests in the Finance Committee. In fact, I have three or four working interest amendments in my pocket and in my folder.

But I said that I was not going to offer those amendments as long as we had the discipline as a body to resist amendments and pass this bill as it came out of the Finance Committee.

Now, I do not want to see this bill falter. I think it is a good bill. The facts are clear. It will take 6 million low-income people off the rolls. It is finally something for the backbone of this country, the middle class. We put a stiff minimum tax in. We eliminate a lot of tax shelters.

Mr. President, this is a good bill. For this good bill to become law, we are going to need the leadership of Senator LONG, Senator BENTSEN, Senator DOLE, Senator BOREN, and others.

So let me say to the distinguished Senator from Connecticut, that as we move along and we go to conference, my hope is that when we emerge from conference we will emerge with a position more similar to that of the Senator from Connecticut and the Senator from New Jersey. But we have to get to conference.

So let me say to my friend from Connecticut that to get a bill, I will oppose this amendment as I have opposed all amendments. I might say to the distinguished Senator from Connecticut and to the Senate, by opposing this amendment that will give my daughter in years to come an opportunity to say "There is Dad still talking about loopholes on television."

Thank you.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

First of all, let me say to my friend from Oregon and my friend from Louisiana, the senior Senator from Louisiana, I have nothing but admiration, compliments to you for the marvelous work you have done on this bill.

I wish I could have been here in the last 5 or 6 days to share the debate and to listen and to learn. I have been, as you know, off doing another job. I

have been in conference trying to get a budget. This afternoon we are in one of those situations where we are not going to get anything done in conference. So this is a good time to come here and express myself for a few minutes about the bill in general and then about this amendment.

I really did not think we would ever be here on the Senate floor debating a tax reform bill. I remember being on this floor during three or four of the tax bills when the Senate debated a minimum corporate tax. The Senator from Oregon remembers that he got up on at least three occasions and agreed that we ought to do that. Remember, that, my good friends? But he said, "Let us wait. Let us put it into tax reform."

A lot of people said it would never happen. But it is here.

□ 1720

I remember one afternoon in one of those debates we talked about taking poor people off of the tax rolls instead of making them file tax returns and paying a portion of their earnings. We said, "Will that day ever come when we would be voting on a tax bill to do that?" That day has come.

I remember we spoke here about tax shelters and we said, "Let's do something about it." And then everyone jelled on the notion that we have got to simplify this Tax Code and lower the rates, and here we are with that kind of a bill.

Well, I will have more to say in the next few days, just to dampen a little bit our enthusiasm and put in a little realism about the impact of this tax bill on the deficit. I will do that later. I will convince this Senate, at least if they will listen, that sooner or later we have got to find some way to add some revenue to this tax base or we are going to live with $150 to $180 billion deficits forever. I think I will be able to convince you that we cannot fund the defense and domestic programs we want because we are paying so much interest on the debt that we have already incurred. But that is enough of that for now.

Let me reminisce with you a minute about this particular provision that was put in this bill. No doubt about it, I am for it. I am for helping the independent oil and gas producers of this country. Yes, I am from an oil and gas producing State. Yes, I have 15 million barrels of oil produced in New Mexico from stripper wells—15 million barrels a year.

And there is a real risk that they are all going to shut down. Do you know what happens when they shut down? They never open up again. That is just the economics of it. And, if that was not enough, we have rules now that when they close down, you fill them with cement because they are dangerous. So you are never going to go down there and get that oil again. In my little State, 15 million barrels might go that way.

How about the United States? The United States produces 500,000 barrels a day from stripper well production. Five hundred thousand barrels a day, dropping off every day by literally thousands.

Now, I submit that we have pretty short memories. Remember with me what happened when we had an oil embargo. We were not even cut off by the amount of these stripper wells that are going to go down the drain in the United States. It was far less than 500,000 barrels a day that the boycott cut off from America.

And what happened? We had lines waiting to get gasoline. I even remember there were some people thinking we were going to have riots at the filling station. And we did, in fact, have a couple of people killed, as I recall, when somebody got mad after waiting an hour-and-a-half at a filling station and went up and shot someone. That's the kind of violence that can happen when we lose a few thousand barrels per day.

Now, what did we do? We said, "Boy, we better do something and do it quick. Let's produce oil for our country." Do you remember that? "Let's turn coal and tar sands into oil."

Do you know how much we voted on this floor to invest in an experimental effort to produce oil from other resources in America? Had that worked, we would have spent $22 billion to turn coal into oil, to turn tar sands into oil, to turn other resources that we find in this country into something we can use in our cars and in our industries. It did not work because oil prices came tumbling down and it did not prove economical.

We will find the day within this decade that we will be back here debating alternatives to oil. Just as sure as I am standing here, within one decade, the U.S. Senate will be back on the floor debating: What are we going to do about the shortage of oil?

Now, far be it from me to go back through the issues of how many hundreds of thousands of barrels we have in America versus the Saudis.

But let me say to you, the worst I have heard about this provision, the worst I have heard about it, is that maybe we do not need it.

Well, I submit to you that in the event we do need it and in the event it works just a little bit, we shall support it. Assume it stops the precipitous demise of the independent oil producer or just slows it up a little bit. What if it only slowed it up so that we do not lose 100,000 barrels a day?—that is all you would need and you will pay for this amendment many times over. Because, before you are finished, you are going to pay for every barrel of oil you lose in the United States that you might have gotten by this kind of incentive.

Who do you think we are going to pay and who do you think is going to get stuck for the cost if we allow the demise of independent oil producers. You are going to pay the Saudis, you are going to pay Mexico, you are going to pay Nigeria, and you are going to be lucky if, at the same time, they do not raise the price of oil. When they do, the American consumer will be paying 10, 20, 30, 40-cents a barrel more for their gasoline.

I have heard the arguments. The one that somebody made was, "Maybe they do not need it." The rest of the arguments, as I see it, have no bearing on the isue. Some have said the reason to oppose this provision is that everybody should be treated the same. You need real estate investments as much as you need oil production. I believe that has led some to say, "Maybe you do not need it."

Let me tell you, if you every had a tax provision that you ought not take a risk on losing, it is this one. If it will just encourage some production—100,000 barrels a day, one-fifth of the current stripper production that is at risk—it is worthwhile.

Yes, it will be good for independent oil and gas producers, but it will also be good for the American consumer, it will be good for the United States of America and, in a very real way, it will keep us from paying more money to the Saudis, Mexico, the Nigerians and others who are going to have the United States in a bind again, if not next year, if not 5 years from now, within the next decade, just as sure as we are standing here.

So I think, for those who wonder if it is worth the risk—if we need it, will it be worthwhile?—I believe the facts are unequivocal. You ought to gamble on the side here of encouraging a little more production rather than finding reasons to say, "Treat everybody the same," even when you know this is an industry that makes us energy independent versus dependent.

Let me tell you one more fact. As of a few months ago, because of conservation, because of production, because of a lot of other things, we were 29 to 30 percent dependent on foreign oil. That is a lot. But we were making tremendous headway from the 45 percent when the oil embargo hit us.

I do not think there is any doubt. I have seen not one single study that says the United States will escape 50 percent dependence in this decade. One says by 1990 we will be 50 percent dependent. And two others I have seen say we are going to be 55 percent dependent.

I say this provision is worth it. The gamble is on the side of our consumers and our country. If this has even the slightest chance of increasing produc-

tion or, conversely, stopping the precipitous decline in production, we should support the provision. It means dollars in the bank to our consumers and dollars in the bank to our country.

I believe we will defeat the amendment of the Senator from Connecticut.

I hope those who are in this Chamber who will be conferees on this bill understand that there are a lot of us who feel very strong about this provision and think it is indeed a good investment. If you want to look around for provisions in this bill that are not anywhere near as good investments of the taxpayers' dollars you can find them, such as exceptional accounting practices that are allowed for some of the insurance companies. There are provisions where no argument can be made on the basis of our national interest, on the basis that those might produce something of general good to the American people. It seems to me before you strike this provision you ought to find some others to strike if you are looking for revenue.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in opposition to the amendment. As it appears to have become the practice in the Senate to declare an interest in a matter before speaking, may I say that New York State is an oil producing State. The first discovery of oil was in Titusville, in Pennsylvania, by Colonel Drake. That oil field stretches across the New York State border into what we call our southern tier, and we discovered oil there in 1858. We continue to pump it, and I acknowlege we are oil producers. But it is not in that sense that I wish to address the Senate.

Mr. President, we have said earlier in this debate, and perhaps it is useful to repeat, that this tax bill contains one of the most extraordinary provisions we have written into the Tax Code; that is, the distinction between positive income and passive losses. We have seen over the last 30 years, and especially over the last 6 years, an extraordinary growth in an absolutely negative industry, an industry designed to produce losses. They are called paper losses but they are good for a deduction from real income for purposes of avoiding taxation.

We have written this provision right into the Tax Code, after having for some 4 years considered using some aspect of it in the minimum tax.

I believe later in the day the distinguished Senator from Minnesota is going to speak about this measure with some measure of opposition or at least with some concern about how quickly it will come into effect. While the measure has not been unopposed, it has been striking to me how many Members in this body have been willing to accept this quite radical change. The reason they have accepted this proposal, I would venture, is because it will put an end to tax shelters. It will put an end to that year-end ritual in the law offices and accounting firms across the Nation, when persons with large incomes—from salaries, from professional fees, from dividends, from interest earning—are told by their accountant how much money they must lose, and how to do it. They enter into limited partnerships, which never make any commitment whatever about earning a profit, but positively guarantee losses.

Ask anyone who has been involved. That is the parties' bargain. Whether it's an office building, a feedlot, a railroad car, a barge, a TV cable franchise. Never any commitment to earn a profit, but a guarantee of loss. That ends up as a guaranteed loss to the Federal Treasury. It is rapidly discrediting the American income tax system. We have changed that.

Mr. President, in this morning's New York Post, the distinguished financial writer Shelby White has an article on this subject, and I have asked it be placed on the Senators' desks. The article has a simple headline: "Tax Bill Will Slowly Demolish Shelters." "Slowly" refers to the fact that we phase in this provision over a 4-year period—as indeed we should do with as radical a change in the Tax Code as this. But as I have mentioned earlier in this debate, without the phase-in, this provision would pick up $50 billion in 5 years. And that is a measure of the extent to which positive income is being sheltered from tax because of passive losses—losses that are artificial, invented, devised for no purpose, say, than that of avoiding tax.

Shelby White, who is an experienced financial observer and a successful businesswoman in her own right, begins with the simple statement:

> The Senate Finance Committee tax reform bill would virtually abolish the tax shelter, and has tax planners and real estate syndicates flocking to Washington to lobby against the bill.

Well, they are not going to succeed. We are going to pass this bill with this provision at its heart. But as we considered this in the Finance Committee, the issue arose whether the prohibition on passive losses being deducted from positive income would extend to certain operations in the oil and gas industry, where the individual involved has an active working interest in the operation—where the individual is fully liable for any uninsurable losses or additional cash needed, as contrasted with the typical limited partnership arrangement where the individual has no risk of loss beyond his initial investment, and no say whatever in management. That is the limited partnership. It is simply a device for avoiding taxes. It has become so.

An active interest in oil and gas exploration and development involves an individual putting funds in, being eligible for gains, obviously—that is the purpose, and that is the object—but being liable to put up additional money for losses which is not infrequently the experience of an activity that is well known for its speculative quality. You get, what, nine dry holes for every productive one. You make the best judgment you can, but the statistics tend to be that the odds are against your succeeding in any given venture.

Now, Shelby White, having started out by saying the Senate Finance Committee tax reform bill would virtually abolish the tax shelter, goes on to note one exception. It is simply that the one exception "would be oil and gas programs where the investors had a working interest and actually assumed some of the risk of the business instead of being passive investments."

I see that my friend, the distinguished ranking member of the committee, is on the floor. I hope he might hear this passage from the White article, having quoted a Washington expert on this subject. She goes on to say, "The new bill would benefit the guy with the oil on his boots but not the dentist in his office."

I have no difficulties with the dentists, say, personally as one of those who long ago as a youth spent too much on penny candy. But that is a mistake that is not to be reversed at this point.

But the simple fact is that high-salaried professionals have typically been the ones who have avoided income tax, and persons with large portfolio investment income.

This bill, says the Washington expert quoted by Shelby White, would benefit "the guy with oil on his boots."

□ 1740

I do not have to make a speech about the oil and gas industry. I simply want to say that I have nothing against benefiting people with oil on their boots. The more oil the better, if it is American oil. We made a decision in the Finance Committee to put an end to tax shelters, and we have done so to a degree without precedent in the Internal Revenue Code. Nothing like it has ever before happened.

That same committee, wide awake, fully conscious, said a working interest in an oil and gas well is not a tax shelter. To the contrary, it involves unlimited liability and a say in the management of the operation. This provision does not encourage or discourage that activity. It is simply done to permit what individuals judge to be in their interest or not as they will.

This is a bill that takes a major step to abolish tax shelters, and I hope that it will be allowed to pass in the form that the committee has drafted it.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I have been listening to the debate for some time now, the arguments of the Senators from Texas, Louisiana, Oklahoma, and others, and what I think this is all about is fairness.

I can understand the depressed independent oil operators in this country and maybe we have to subsidize them. Our friend from Oklahoma said we had provided a work training program for other industries that are in trouble. We passed an amendment on the supplemental appropriations last week that gave trade adjustment assistance for oil workers.

This Senator voted for it.

My friend from New York has said this is not a tax shelter. I disagree with him. This is a tax shelter. If we want to have tax shelters, we ought to say so and say we have to do it because this industry is in trouble.

We have heard some discussion here about the real estate industry. They are not generally in trouble and they have had some very lucrative benefits that Congress gave them. They did not break the law by taking advantage of certain depreciation, writeoffs and investment credits. Congress gave them those benefits and they responded.

Now the day of reckoning has come and rightfully so. The day has come that we need to have a fair system, a simple system. That is what President Reagan talks about. That is what most Senators here talk about. This Senator has promoted what I consider a real fair and simple system. That is doing away with all deductions, everything. Those beautiful charitable deductions, interest on homes, everything, and expense capital investments instead of writing them off over a period of time.

Obviously, that bill is not before us here so I will not debate the merits of the flat, simple tax.

What we are talking about is everyone thinks we ought to be fair.

I do not think this fair. What disturbs me more than anything else, if it is not fair, is when the distinguished chairman of the subcommittee and others will take the floor and say "We opposed this in the committee. Philosophically, we are against it. Yet I am committed. I took that blood oath. I cut my wrist and melded together with my colleagues on the Senate Finance Committee that we are not going to support any amendment that is going to alter this bill one iota."

That is not what the process is all about.

I think this is a good bill and I compliment the Senator from Oregon, the ranking member from Louisiana, and the members of the committee who have put in so much time and so much work.

I am glad we have this bill and not one similair to H.R. 3838 as it passed the House before us. This bill has some real merit to it, but it has some weaknesses.

One of the weaknesses is raised by the amendment of the Senator from Connecticut, a working interest in an oil drilling operation, if a loss results, should be deducted from ordinary income, and such an interest in, say, the real estate business, is limited to $25,000 limit. That is unfair.

Then there is the distinction.

All other industries or investments, active, material losses are deductible against income. But the oil industry has something special. Here we are talking about a working interest. There is a distinction. A working interest means taking on the liability, but it does not mean that you go out there and put your hands on the business and actually work there.

If you are a active partner in the real estate business, or you are a general partner in some other investment and you sustain a real loss, in the real estate business you can only take a $25,000 deduction on your other income. Here in the oil and gas situation you can take it all.

Mr. NICKLES. Will the Senator yield?

Mr. DECONCINI. Not now, but I will in a moment.

I understand the necessity to create what is supposed to be an incentive to invest because are drilling this hole and it may be dry. That is what we are talking about in getting the rate down to 27 percent, or if you are a corporation to 33. That is supposed to be the incentive to take that risk. For the life of me, I cannot see the need to grant this special consideration here.

I want to go on record with my good friends who come from oil States. I supported deregulation. As the Senator from Connecticut has indicated deregulation did not benefit my State; at least not that I know of. But is was the right thing to do. We were in a period of talking about using market regulators instead of Government regulations. We had this class of Government controls over the oil and gas industry for a long time. Our good friends who are here today asking for a special privilege, were then not asking for anything but an open market, and it was very beneficial to the industry. Rightfully so, this body voted and this Senator joined in that vote.

I am not here to pick on the oil industry. I understand they are having hard times. What I am here to say is do we not need to be fair? Because they are having a tough time today, what about tomorrow if things get good for them, as they will, as they always have.

There is no provision that this goes away when the price of oil goes to $20 a barrel or there is a doubling of the amount of rigs in drilling. No, they will get this indefinitely, or as long as this law stays in effect.

I say if we are going to do tax simplification and modernization of our tax system, we should not say to the American public that we are not creating a tax shelter for the oil industry. But we are. And we are going to have a chance in a few short minutes to decide whether or not we want to eliminate that and treat the oil industry as we treat every other industry in this bill and not provide tax shelters. Or if we decide that we want to go ahead and allow some tax shelter, then I suggest that we have an amendment that applies equally to all industries, as well as to oil and gas.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. DECONCINI. I am glad to yield to my friend.

Mr. BENTSEN. Every other general partner who has full liability and is involved in management is permitted to deduct these losses against his income. To have a different rule for real estate is unfair, and that is a mistake in this legislation. So I agree with that.

But the answer is not to try to knock out other people who have a working interest. The answer is to try to correct the real estate situation, and hopefully it can be done in conference, so that the person who actually manages the property can deduct his losses. That is what we have done in the oil field. We are not talking about doctors and lawyers who put in their money without further liability. They are out. But in the case of working interests, there is full liability which when obligated can be taken as deduction.

Mr. DECONCINI. As I read this bill, it is that all investments, all active material losses, are deductible against other income, active material losses, which means the active partners. In the oil and gas business, they talk about working interest, which is a little different than an active material loss versus a working material loss.

Mr. BENTSEN. But the point is in this situation you have a high-risk venture when you are exploring for oil. So when you have an independent who does the drilling, he does not take one well all by himself. He tries to spread it. What you do is you have several investors get into one well and, in turn, into others, so they have some diversification. Otherwise, you will not get them to do it.

Mr. DECONCINI. Mr. President, I only say to my good friend from Texas——

Mr. BENTSEN. If you have a blowout——

Mr. DECONCINI (continuing). If you are going to invest in a new plant in some other industry—not real estate in this instance—and you have an active material loss, it is treated differently than an oil and gas working material loss. I do not think that is fair.

I am not here to protect the excessive shelters or whatever has been used, or some say abused, but it seems to me that the case is not made here for oil and gas. We ought to treat investors fairly.

What we have done in this bill is lower the rates and that is fair and that is good, that is the incentive that is supposed to drive an economic system or fair tax system, at least in the thinking of the Senator from Arizona.

I shall be glad to yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. NICKLES. I am happy to yield to the majority leader.

Mr. DOLE. Mr. President, I think there are just three speakers left. The Senator from Arkansas would like 10 minutes, the Senator from Connecticut [Mr. WEICKER] would like 10 minutes, the Senator from Oklahoma would like 10 minutes. I wonder if the managers would be willing to agree that we vote in relation to this amendment at, say 6:25 p.m. Ten minutes to the Senator from Arkansas, a minute to the Senator from New York, 10 minutes to the Senator from Oklahoma, 8 minutes to the Senator from Connecticut. Does the Senator from Louisiana want time?

Mr. LONG. It is all right with me, Mr. President. Nowadays, the minority leader wants to know about these things to pass judgment on them, so I defer to him.

Mr. DOLE. Mr. President, let me modify that request: The distinguished Senator from Arkansas [Mr. BUMPERS] would have 10 minutes; the Senator from New York [Mr. MOYNIHAN] would have 1 minute; the Senator from Rhode Island [Mr. CHAFEE] would have 1 minute; the Senator from Connecticut, the offeror of the amendment, 10 minutes; the Senator from Oklahoma, 10 minutes; the distinguished minority leader, 5 minutes. And the vote would occur at 6:30, a vote in relation to the amendment. As I understand it, there will be a tabling motion offered.

The PRESIDING OFFICER. Is there any objection? There being no objection, it is so ordered.

Mr. LONG. That is the motion to table the Senator is speaking of?

Mr. DOLE. Yes, Mr. President.

Mr. MOYNIHAN. Mr. President, this is simply in response to a statement by the Senator from Arizona.

May I say that there were those of us on the Finance Committee who opposed this particular provision at the time it was offered in the Finance Committee. I was one. But I have resolved, and I think all of us have in the committee, that it was a sensible distinction with respect to an important activity and it does not violate the fundamental distinction between positive income and passive losses, which is at the heart of our provisions to put an end to tax shelters as they are understood and widely and outrageously practiced in the country today.

I thank the Chair.

I thank my friend from Oklahoma for yielding to me.

The PRESIDING OFFICER. The Senator from Oklahoma had the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. BYRD. Mr. President, I oppose this amendment. The striking of the exemption of working interests in oil and gas properties from the passive loss repeal is not in the best interest of the Nation. It is imperative that we continue to explore for oil and gas in this country. Since January of 1986, oil imports have increased and they are continuing to increase. Our dependence on OPEC has increased correspondingly. Saudi Arabia has gone from the eighth largest supplier of U.S. petroleum needs in 1985 to the fourth largest so far this year. In terms of just crude oil imports, Saudi Arabia is now the second largest supplier. At the same time, drilling in the United States has dropped to its lowest level since 1971.

The Appalachian basin provides between one-fourth to one-third of the U.S. oil and gas production. This production is primarily from stripper wells developed and operated by independent producers. It is an industry that employed 6,400 people in West Virginia in 1985. Today, employment has dropped to 4,000 and is continuing to decline because of decreased exploration.

Drilling for oil and gas is a risky and expensive business. The exemption under the Senate Finance Committee bill allows a taxpayer that owns a working interest in an oil and gas property to offset other income with losses and credits derived from such activity. Now this is not a giveaway. A working interest is an interest that is burdened with the cost of development and operation of the property; in other words being liable for all the risks.

Capital investment is the backbone of the independent oil and gas industry, capital that is used for the exploration and development of new gas and oil reserves. This amendment will cause an even further decline in drilling activity by independent producers by eliminating their major source of capital investment. These independent producers have accounted for 90 percent of the exploratory drilling that takes place in the United States and for finding 80 percent of the new reserves that are found. Without continued investment in the independent oil and gas industry, we will become even more dependent on foreign oil imports.

Mr. President, without the working interest, and let me emphasize "working interest," exemption, we are placing ourselves on a perilous course that we traveled in the 1970's, a road we cannot afford to travel again. It would be a travesty for our Nation to place ourselves at the mercy of foreign nations for our oil and natural gas supplies. I must urge my colleagues to oppose this amendment.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I think we may be taking too much time on this, because I think the Senate has decided what it is going to do. It is going to decide to table this amendment. Nevertheless, I think it is a golden opportunity to enlighten our colleagues and those across the country about what this amendment is about. I must say without breastbeating, nobody has better credentials in this body than I have on this issue, on which I must respectfully disagree with my esteemed colleague from Connecticut [Mr. WEICKER].

I did not think it was fair back in the 1970's to allow the oil industry to benefit from a price of oil that was being set by an international cartel, of which the United States was not even a member. Because of some of the positions I took then, I did not endear myself to the oil industry. Now, they are being victimized—not by the cartel necessarily, but mostly by Saudi Arabia.

Yesterday, the price of oil, I think, was $13.69 a barrel.

□ 1800

The Senator from Oregon said that this bill would cost $300 million a year. I submit that it is not going to cost nearly that much because it assumes that people are going to be anxious to buy working interests in gas and oil wells. I do not consider myself the most prudent investor, but I have more sense than to invest in a working interest in an oil well in my State at $13.69 a barrel when it cost them $12 a barrel to get it out of the ground.

So I do not think that the bill really affects the Treasury one way or the

other. We had eight oil and gas rigs; eight total rigs operating in my State last month. Nationwide there were 723 operating in the Nation last week. And that compares with 4,500 rigs that were working in this country in 1945. So I do not have to tell you any more about the vulnerability of this country if this trend continues.

Now, Mr. President, to get down to the merits of the amendments, I agree with the Senator from Texas [Mr. BENTSEN] when he says it is true that real estate is taking a hit under this bill, and frankly I think it is unfair. I do not know that anything can be done about it, but I think they are taking a hit.

But a working interest, for the edification of those who may not have been paying that much attention, a working interest in an oil or gas well is an investment in a specified interest. You may have a one thirty-second working interest. And usually working interests are in fractions and not in percentages. But when you buy a working interest in an oil or a gas well, you submit to the proposition that you are going to take a proportionate share of the tort liability if anything goes wrong. If the well blows out, if you get sued, if saltwater overcomes the well, you are going to have to pay for your share of taking the saltwater out in order to recover the oil. You have to submit to a proportionate share of any unforeseen costs that may develop. And then if they hit a dry hole, your working interest is worth exactly zero. If you put $100,000 into, we will say, a one-sixteenth working interest in an oil well and they hit a dry hole, you have lost $100,000. If you put $100,000 in a working interest in an oil well and it winds up costing twice what you thought it was going to cost, you are going to have to come up with another $100,000. And if the well has to be reworked at some point, if it is a good well, you have to pay your share of that. You are literally a participating partner in that well.

Now, how do you treat that as passive income? That is not like putting money in the bank and just getting an interest check every month or investing in a stock and getting a dividend every year. You are making a risky investment, and you are taking the chance on having to put in more money. And certainly any time you invest in an oil or gas venture, you are taking a very good chance that you are going to lose the whole thing if it is not productive.

So, Mr. President, it occurs to me that this is not a tax shelter in the true sense of the word.

Finally, I must say what everybody else has said, and that is you are not going to find investors to invest in oil and gas well drilling operations at today's prices under any circumstances, whether you approve the amendment of the Senator from Connecticut or not, because the investment is not worth it. The risks are not worth it because even if you hit, at the price of oil and gas in this country today it is simply not worth it.

The oil industry reminds me of a story I heard the other day. A fellow ran an ad in the paper, "Lost dog, nondescript, blind in one eye, left ear half gone, bobtail, bad case of mange, answers to the name 'Lucky.' "

Now, most people in this country still think the oil industry is somehow lucky. I was in south Arkansas last week where our oil industry is, and you see bumper strips down there saying, "Lord, give us just one more oil boom; I promise I won't waste the next one." I am telling you they are desperate and they are hurting. There are more rigs stacked up there than you can count. And if you pass this amendment, all you are going to do is render this Nation more vulnerable to foreign imports, stack more rigs, and you are going to commit really an inequitable act. I think it would be patently unfair to the industry to pass this amendment. I regret that I must take issue with my distinguished friend from Connecticut but I urge the Senate to vote to table this amendment.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, when this amendment was presented in the committee, I voted against it. As I recall, it was adopted by 11 to 9, and so the logical conclusion might be that having voted against it in committee I would vote against it on the floor of the Senate. But not so. The bill that we brought out of the Finance Committee was a carefully crafted bill. Various interests were represented. We took votes up and down on a whole series of matters. There was one where I was on the losing side. But nonetheless, because I am so anxious to see this bill adopted and do not wish to see it fall apart because of the passage of this amendment—and I am confident that if this amendment passed it would severely hamper the passage of the bill as a whole—and furthermore, I listened to the arguments that were presented both in the committee and on the floor of this Senate. I am convinced that there is a great deal to be said on behalf of those who are supporting the exception for the working interest in oil and gas property—I will vote against the amendment submitted by the Senator from Connecticut. If it is a motion to table, I will vote to table because, one, I am anxious to see this bill passed; I think it is an excellent bill, and, two, I think there is a good deal of merit on behalf of the exception that is included in this amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank my good friend from Rhode Island for his statement in support of our efforts to table, and at the appropriate time I will move to table the amendment of my friend from Connecticut.

I would be happy to yield whatever time is necessary to my friend and colleague from Oklahoma [Mr. BOREN].

Mr. BOREN. Mr. President, I thank my colleague from Oklahoma and I appreciate the remarks which he made earlier on the floor in regard to this particular amendment. I have listened to the discussion by all of those who have been on the floor since debate began on this amendment. I heard the discussion of the distinguished chairman who talked about how this amendment was adopted in the Finance Committee. I have heard those who say that they are going to vote for the tabling motion in order to hold the coalition together, which is supporting this important piece of tax reform. I consider myself a part of that coalition. But as I have heard some speak, they seem to be speaking with reluctance in support of the provision for the right of those who invest in the working interest in an oil well to deduct their actual out-of-pocket losses in cases in which a dry hole is hit.

□ 1810

I want to say again, Mr. President, and I hope my colleagues will hear me, that I think that those who intend to vote with us for the tabling motion should do so not only with a clear conscience but also with a feeling that they are doing what is right for the country.

I want to repeat again: Just because I come from an oil- and gas-producing State, where jobs depend upon that industry, and a State that is now experiencing real economic depression, that does not mean I do not try to act as a Senator in the national interest.

I want to say again, and I hope my colleagues will hear me, that when you have an industry that is hit as hard as this is—and I heard the Senator from Oregon, the chairman of the committee, say he is not sure we need this exemption for working interests in order to bring adequate capital into the oil and gas industry—all I can say is that when you had a rig count of 4,000 just 3 years ago, actively drilling and exploring for oil and gas so that we will not be dependent on other countries for oil and gas, just that short time ago, and now you have a rig count of 686, look at what has already happened to this industry. It is already being destroyed.

I think there is adequate reason to believe that if you put additional tax burden on that industry, which already is having grave difficulty at-

tracting capital investment, it is by no means certain that the industry, particularly that sector of it, can survive at all.

We should not play Russian roulette with the national security of this country. Again, let us think about the national interest. It is very clear that if we do not provide an opportunity for people to make outside investment in the independent sector of the oil and gas industry, the only people that will be able to drill oil and gas wells in this country will be the large, integrated companies that can generate their own capital, from their own earnings, in marketing, refining, and other operations.

So, Mr. President, I cannot believe that it is the national interest—I am not talking regionally; I am talking about the national interest—it is not in the interest of any Americans to destroy the independent sector of the oil and gas industry and leave this industry solely dependent on the large giants, the international oil companies, that will be left. It is the independent sector that has drilled wildcat wells, that has made the explorations to develop the new fields.

Let us not leave the American people solely in the hands of the large companies. Let us not leave the American consumer wholly at the mercy of those who are producing in other countries. Let us not dismantle this industry.

We are not talking about turning on a water tap when the water is needed again. It is not so simple. Once the rigs are stacked, once the jobs are gone, you have lost forever that level of expertise that is necessary to continue an independent industry.

You cannot say to the graduates in petroleum engineering: "Wait for 5 or 10 years. We may someday call you back into service." We cannot say to the supply industry, which has invested in inventories of pipe and other material: "Wait 5 years. We may call you back into existence." It will be too late.

When the consumers of this country come back and say, "Why are we now dependent on overseas sources so that others can set the price of oil and run it through the ceiling? Why is it we destroyed competition in the oil and gas industry and left the giants and destroyed the small independent producers in the United States?" this Senator wants to be able to say that I tried to prevent it, not for the interests of the oil and gas industry but for the interests of this Nation.

We are capable of seeing the national interest wherever we happen to live. We are all Americans, and we should think that way. This is not in the interests of any American, so far as this Senator can sincerely see the case.

● Mr. BINGAMAN. Mr. President, while I support the Finance Committee's tax reform package and I intend to vote for it, I am concerned that certain proposed changes may work an unfairness upon certain investors.

A number of my constituents have expressed concern about the retroactivity of certain provisions in the bill. I am concerned in particular with the disallowance of loss deductions from previously established and existing limited partnership investments. These investments were made in the belief that the provisions of the tax law then in effect would continue. Moreover, many individuals were encouraged to make those investments by exisiting law and particularly by changes made in the 1981 tax act governing certain types of investments.

For example, Mr. President, a major tax incentive has been provided to encourage people to invest in low-income housing. We have a severe lack in the country in adequate and affordable low-income housing, and it is good public policy to recognize the need and encourage investment in this area.

I wish a tax incentive was not necessary, but it is necessary, and we have recognized it and people have relied on it. We need to ask ourselves not only what the action now contemplated does to investors, but what it does to the laudable goals we have previously decided to encourage.

I am also concerned that it has been a longstanding tenant of past tax reform efforts that the changes called for not be retroactively applied. There is enough of a chilling effect on investors when any changes are made in the Tax Code. People are naturally reluctant to make important financial commitments because of uncertainty over how they might be affected by new rules resulting from any comprehensive revisions of the Tax Code. I understand the distinguished chairman of the Finance Committee and the distinguished chairman of the House Ways and Means Committee issued a joint statement on March 15 saying that investments made now by limited partnerships would continue to be taxed for the life of the investment under current law, even if Congress changes the tax treatment of such investments made in the future.

Yet, despite this statement, changes are called for which change the rules on investments previously made. This action, in my opinion, raises questions of fairness and equity. It undermines confidence in the Tax Code and hurts business' ability to make long-term decisions.

I would hope that every possible effort will be made to resolve this problem in the conference.●

Mr. BINGAMAN. Mr. President, I rise in opposition to the Weicker amendment which strikes the working interest provision of the tax bill relating to oil and gas production.

There has been much discussion today regarding the importance of this working interest provision. I want to explain why this provision is so important and why my colleagues should vote against the amendment.

My opposition to the amendment is based on the following facts:

I. INDEPENDENT PRODUCERS NEED OUTSIDE CAPITAL TO HELP FINANCE DRILLING ACTIVITY

First. Independent oil and gas producers drill 87 percent of all wells drilled in the United States. Most independents cannot and do not fund their exploration and development expenditures exclusively out of their own cash flow. Because of the high risk involved, most producers share this risk with other co-owners. It just makes good business sense to spread this risk.

Second. Ernst & Whitney recently conducted a survey which shows, among other things, the source of funds for exploration and development between internally generated funds, outside investor funds, and borrowings. Banks have always refused loans for the drilling of exploratory wells unless adequate security was pledged. At present, funds from banks are unavailable, as banks are hesitant to loan money, on oil and natural gas reserves, to producers.

II. LIMITED PARTNERS ARE TOTALLY DIFFERENT FROM WORKING INTEREST OWNERS IN THE OIL AND GAS INDUSTRY, FOR EXAMPLE

First. A limited partner in a limited partnership, by definition is:

First, limited in his financial—money—exposure.

Second, limited in his liability obligations.

Third, limited in the decision making process.

Second. A working interest owner, operator or nonoperator, by definition, is exactly opposite that of a limited partner in that he has:

First, unlimited financial—money—exposure.

Second, unlimited liability.

Third, unlimited participation in decisionmaking process as to his share of ownership.

Third. Working interest owners have real economic losses, not paper losses. Working interest owners are always "at risk," whereas limited partners are not.

III. ALL WORKING INTEREST OWNERS ACTIVELY PARTICIPATE IN THE DECISIONMAKING PROCESS OF DRILLING A WELL

First. All working interest owners actively participate, from start to finish, in the economic decisionmaking process involved in the drilling and completion of a well, and are consequently, not passive investors. For example, each working interest owner must decide the following during the course of operations:

First, whether to purchase a working interest and pay a proportionate

share of the cost of leases. Once acquired, each working interest owner "owns" a portion of an asset—a mineral lease.

Second, whether to pay his share of the annual or monthly delay rentals, or whether to drop the lease prior to drilling a well.

Third, once the lease is acquired, whether to farm-out, sell, or retain the lease.

Fourth, whether to participate in additional exploration activity, seismic, work to aid in the selection of a drillsite location for the proposed well.

Fifth, whether to be covered by blow-out insurance.

Sixth, perhaps the most important financial decision is to be made by the working interest owner is whether to participate, or not participate, in the drilling of a well. This decision is made when the working interest owner signs an authority for expenditure [AFE]. The operator of the well is usually guided in the amount of money to be spent on a well by the amount of the AFE. The operator only has duties. He does not have any rights or powers, and is hired, and can be fired, by the working interest owners. Oftentimes, the operator does not have an interest in the well.

Seventh, whether to supply their own equipment in kind on the well.

Eighth, to participate in the interpretation and evaluation of the electric log. Any additional logging or testing must be approved by all working interest owners.

Ninth, must decide whether to participate, or not participate, in setting pipe, completing the well, and constructing a tank battery if necessary. If agreeable, a completion AFE must be signed for each completion attempt. After the initial completion attempt, if the necessity for additional work, such as testing additional zones, is encountered, each working interest owner is asked to approve and sign an additional completion AFE.

Tenth, once the well is productive, each working interest owner must select a purchaser for his share of oil or natural gas. Each working interest owner has the contractural right to take his product in kind or sell to the purchaser of his choice.

Eleventh, must decide to pay his share of pumping unit and/or compression facilities, as indicated.

Twelfth, must decide whether to recomplete—workover—another zone upon depletion of the initial zone.

Thirteenth, must decide feasibility, cost, and extent of participation in secondary and/or tertiary recovery techniques and unitization.

Fourteenth, must approve and pay his share of the cost to plug a well, when appropriate.

Second. Working interest owners, not the operator, make the critical decision. An operator functions under the direction of all the working interest owners. The operator often makes suggestion and Recommendations, however, the working interest owners make the decisions.

Third, if, during the course of drilling a well, one working interest owner goes nonconsent, that is, decides not to participate, each remaining coowner must decide if they want to pick up and pay for such party's additional working interest percent. Also, if any working interest owner defaults in the payment of his bills, the remaining working interest owners are asked to pay their proportionate part. Hence, all working interest owners are at risk and have joint and several unlimited liabilities.

Fourth, working interest owners are also totally liable for correcting any environmental damages. For example, although it rarely occurs, it is possible there could be a massive spill at a well and crude oil could severely damage the surface and nearby water sources. All working interest owners are liable for the cost of completely cleaning up any damage as a result of a spill. In some instances, the cost has gone up several hundred percent as a result of environmental concerns.

It is clear from these facts that the working interest provison is a legitimate deduction and should be maintained. The amendment before us today will only serve to render the Nation more vulnerable to energy supply disruption. The working interest provision is critical to our Nation's ability to continue oil and gas production. I ask my colleagues to defeat this amendment.

● Mr. GRASSLEY. Mr. President, I rise to speak against the amendment offered by my friend from Connecticut. The issue he raises is not whether some special break has been retained for the oil industry. The issue is whether a working interest can be properly characterized as an exception. I do not believe that is a fair characterization, notwithstanding the title to the section in the bill.

A working interest is an interest in an oil well in which the participant is at risk. The investor is fully at risk, as a general partner would be. Because he is at risk, he is personally liable for tort liability, as well as any further contribution to the partnership for operating capital—without limitations. He is required to make active management decisions. He must make the choice with his partners whether or not to make those additional capital contributions. This is a different sort of investor than the limited partner in an oil deal, a real estate deal, or any other venture in which the investors' liability interest is limited as under current law.●

● Mr. LEVIN. Mr. President, I will vote in support of the Weicker amendment to remove from this legislation the special treatment for oil and gas investments.

Let there be no doubt that there is special treatment. Let me quote from the committee report:

> Working interests in oil and gas properties generally are treated as active whether or not the taxpayer materially participates, and interests in rental activities are treated as passive whether or not the taxpayer materially participates.

I can understand why many argue that oil and gas investments are important to our economy and to meeting important national needs. There is equity to their argument that these investments deserve special attention if we are to promote the general good.

The problem, however, with this provision in the committee bill, and the reason why it should be deleted, is that it represents equity—but only equity in isolation. There are other investments which are also in the national interest but for which this special treatment is not available in this bill. The argument was made during the debate that if there was a problem with the tax treatment of other areas of investment, then those problems could be resolved in the conference. Could be? Why not resolve them here an now on the Senate floor? I feel confident that if we strike the special treatment for oil and gas now, then this body will turn its attention to restoring it in an environment in which the legitimate needs of a variety of investments could be addressed.●

Mr. SIMPSON. Mr. President, I wish to vigorously oppose the amendment by the Senator from Connecticut which would change certain provisions in the Senate Finance Committee bill concerning the oil and gas industry. This amendment would alter the new class of passive losses in cases where an investor in an oil or gas drilling enterprise carries some liability beyond the original investment. The Finance Committee rightly allowed the deductibility of these losses since capital is indeed at risk and should be permitted to be deducted in the event of a loss.

The Weicker amendment would be devastating to independent energy production which is highly dependent on limited partnerships to provide the needed funding for a very capital intensive industry. This is a high-risk industry where there are no guarantees of making a buck, and investors should be allowed to offset that risk with a deduction of their losses. The Finance Committee bill already includes a number of "tightening provisions" to protect against abuses in oil and gas investments. Taking away these remaining provisions would leave domestic energy production at a standstill—and it is close to that now.

In this debate it is vital to understand that this is not a regional issue—this is a national issue that affects

every single American. The issue is one of vulnerability and energy dependence on foreign producers. The national security needs of maintaining a strong energy industry cannot be underestimated. We cannot allow the country to become dependent solely on the whims and wishes of foreign producers. We have done that in the past and we are still paying for our greed and mistakes.

It should be emphasized that the provisions included in the Finance Committee bill regarding the oil and gas industry are not special exceptions—rather, the Senate Finance Committee bill clarifies the unique nature and unique risk of drilling for oil and gas. There is a distinct difference between the type of investment that is made in the hopes of reaping real production and earnings—as in the oil and gas industry—versus other passive types of investments that are made solely to produce losses for the specific purpose of offsetting other taxable income.

To obfuscate and confuse these true differences and to support this amendment would ravage our domestic energy production at a time when the industry is already at one of its lowest points in its history. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment the senior Senator from Oklahoma. I think he has done outstanding service in trying to help enlighten the American people as to what we are talking about.

When we discuss the working interest, I have heard the comment that this is a tax shelter. It is not a tax shelter to allow a business or an individual to deduct an out-of-pocket business expense if it is a loss.

I heard the Senator from Arizona say that we do not have the same thing in real estate. In real estate—and I have heard this complaint made by several people in that industry—if they cannot deduct their real out-of-pocket business expenses, their losses, then we have to make some changes to do so.

I think a lot of us will be addressing that in the near future. Maybe that can be addressed on the floor; maybe it should be addressed in conference. But a business person should be able to deduct real out-of-pocket losses.

I wish that in the oil industry we did not have those real out-of-pocket losses, but we do. In this industry, in the last few months, we have seen prices cut over 50 percent. I think everyone is aware of that.

Someone said the free market is at work. It is not the free market at work. It happens to be the Saudis who manipulated production. They wanted to increase their percentage of world exports and doubled their production, and prices have fallen by over half. Prices were around $30 for the last couple of years, and today in Oklahoma they are at $13.85—less than half of what they were.

Natural gas prices a couple of years ago were as high as $8, and today it is around $1. We have seen oil and gas prices plummet substantially. So we have real losses, and if we have real losses, we should allow those to be deducted.

I have heard the word "fairness" several times, that it is not fair. A lot of things are not fair in the Tax Code. One is that the oil industry is the only industry that has a windfall profits tax—the only one. There is no other industry today that has a windfall profits tax still on the books. The Government said it is going to take a substantial amount of money. In 1983, the windfall profits tax raised $12.2 billion. All the corporate income tax together was $37 billion. No other industry alone—no other industry, period—paid more taxes in 1983 and 1984 than the oil and gas industry. They are not paying the windfall profits tax today because prices have plummeted so low. So we do not have fairness.

Let us talk about the effect of this amendment. We have heard several Senators say that the rig count is now 686. That does not mean much unless you compare it to what it was. Six months ago, it was twice as high. We have the lowest number of active drilling rigs—that means actively searching to find oil—today than we have had since World War II. I will tell you what that means. It means that we will become dependent on foreign sources. We import now about one-third, but we are going to be importing substantially more. It took 3,000 or 4,000 rigs to keep our annual production level. Now we have a little less than 700 rigs, and it is falling daily. That means we will be sending more dollars overseas.

In my State of Oklahoma, we have 101 rigs running today. A few years ago, we had 880. We had more rigs running in our State of Oklahoma 5 years ago than we have in the entire country today.

The American people should wake up, because there is going to be a penalty paid, and that will be our dependency on foreign sources.

So I hope we will use some common sense and that we will think and that we will allow real out-of-pocket business losses to be deducted.

I thank Senator LONG for his fine work on this, as well as Senator BOREN and others.

At the appropriate time, I will move to table the amendment of the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes.

□ 1820

Mr. WEICKER. Mr. President, first I commend the candor displayed by the distinguished chairman of the Finance Committee, Senator PACKWOOD, and that of the ranking Democratic member of the Finance Committee, Senator BRADLEY, for indeed they state it very clearly one of the two reasons why someone should vote against this amendment. There are only two reasons.

One, clearly enunciated by the distinguished chairman of the Finance Committee, if this tax bill were to pass, then indeed this oil and gas exception had to be part of it in the commimttee and probably also on the floor. So if indeed that reason is so, fair enough, fair enough.

The second reason those Senators representing oil and gas States quite properly and very articulately presented their arguments on behalf of industries within their State, or argument, and supported it with sound and good fact.

Now, why should you vote for the amendment? First of all, just so my good friend from Oklahoma has no misapprehensions, and we have been good friends, I feel I have my credibility in this area not on the basis of the fact I chair the Small Business Committee, but 6 years while we went through the decontrol fight, for 6 years while the oil and gas States profited mightily, I kept on siding with them on decontrolling prices, feeling in the long run it would be in the best interest of my constituency, and indeed I was right and it has been in their best interest. But those were a very disagreeable 6 years.

The fact is, and I have heard the Saudis criticized for the problem that exists today, excuse the pun, you rode the tiger, you rode him up and the tiger is no longer up, he is coming down. You got onto him and you cannot get off of him.

Nobody wishes anybody unemployment in any of our States. But the fact also is that there are broad national policies to be achieved which again in the long, as I tried to teach the people in the State of Connecticut during the decontrol battle, in the long run will benefit all of us. And one of those great principles is fairness in our Tax Code.

You cite those of you who represent oil and gas States the element of risk and properly so.

I indicated earlier I chair the Small Business Committee, and in this bill you devastated the venture capital available for small business by eliminating the capital gains differential. By eliminating that differential there will be no venture capital out there for small businesses to start.

Everybody agrees with that. You have dried up the pool of available

capital for small business to start up in the United States by virtue of provisions of this Code and eliminating the differential.

I disagree with that. Many small businesses who have nothing to do with oil or gas or real estate disagree with that. But in the interest of fairness, in the interest of fairness, everybody agrees OK, as long as my neighbor is taking it on the chin I will take it on the chin.

So let us not mislead each other on the element of risk. Whatever additional rewards were specialized rewards in the past, we said the lower rates are there in order to supply more money, make more capital available. But this as indeed it is quoted in the statute itself presented to the body is over and beyond that. It is over and beyond that.

It is, as the chairman said, an exception. This is in the section called tax shelters and it discusses those passive activities and then exception for working interest in oil and gas property. It is an exception pure and simple, properly so for those who come from oil and gas States, properly so for those who want to see an overall tax bill, but not properly so in terms of what is a tax bill in a bill that calls for a radical restructuring on the basis of fairness and on the basis of simplification.

I have heard the national security argument used on oil. I understood that argument as I called for decontrol. I understand it today as I want to see the 55-mile per hour speed limit kept in place, as I think we ought to continue our conservation efforts, as we ought to go ahead and concentrate on more fuel efficient engines and smaller cars. I understand all of that.

But what is involved with this exception has nothing to do with national security. It has to do with the oil that is in the ground. And as was properly stated by the distinguished Senator from Arizona when the price goes up the exception does not go away. Indeed, the oil is there today if anybody wants to pump it. Do they want to pump it? Oh, no, they will plug the wells and go ahead and cap until the price goes up.

The provision in this code, the one that I oppose, called for a retroactive penalizing of these various interests, of these investments, of these various shelters. What could be more unfair than that? Someone who has already invested their money and the rules are going to be changed in the middle of the game so that they lose that incentive.

What could be more unfair than eliminating the incentive to give many small businesses all over this Nation the opportunity to start and to grow and to thrive? And let us not be misled by these little independents. You are talking about corporations that are in the billions. Small, sure compared to those in the top of the Fortune 500 but huge in relationship to businesses in every other field of endeavor.

If indeed we are not going to be vulnerable to OPEC, I will tell you what we ought to do, and this will be backed by the oil and gas industry. Go ahead and let us put a tax on gasoline. Let us go ahead and do that. There is a conservative measure and there is a tax that goes to the benefit of the whole country. Use it to reduce the deficit, just as this amendment, as you note, comes to you, not to spend the money on something else, but strictly to go ahead and eliminate the exception and reduce the deficit.

The distinguished chairman of the Budget Committee stood here and said we need additional revenues. Here you have them right here, to reduce the deficit, not asking you to take it from the oil States and give it to any other endeavor or section of the country, but take it to reduce the deficit and put our imprimatur as a body on the concept of fairness.

But there are no exceptions, whether it is for oil, real estate, Christmas trees. Go ahead. As industries, everybody is going to be treated the same.

That is the issue.

It is not national security. Maybe the issue is whether or not we can pass this tax bill. That is a matter of political clout, and I suspect I am going to get rolled on this amendment.

By the time you are through with those who want to see a tax bill pass and those who come from the oil-and gas-producing States, all of a sudden the issue of fairness, which is most dear to the little man, gets lost just as it is lost in this bill to small business.

Yet, I have not heard small business complaining. They said, "We will take our lumps," but I suspect when they see what is going to go on here this afternoon they will wonder why is not the mom and pop store just as important as the driller and indeed how many Americans are out there involved in this kind of an investment? This is nothing that benefits the individual American but it again underlines the point of clout, monetary clout.

Time and again I have heard the phrase used, "Well, it is a bad idea whose time has come," or "We have to have it if we are going to pass the bill."

How refreshing it would be to see something clear this place that did it on its own merits.

I hope that the motion to table will be defeated, that we will establish fairness for everyone in this Nation, that we agree when it comes to taxes there are no exceptions in terms of the matter that sets before us anyway so that at least for a year or so, for a year or so, what we pass has credibility, what we say has the truth behind us, rather than to come out of the starting gate yelling "fairness" and holding up the sign of fairness in the right hand while we deal out the exceptions with the left hand.

The PRESIDING OFFICER. All time has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished Senator from Hawaii may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1830

Mr. MATSUNAGA. I thank the distinguished majority leader.

Mr. President, I rise primarily to dispel a thought that debate on the pending amendment has fallen into two opposing camps; that is, oil-producing States versus non-oil-producing States.

As a Senator from a non-oil-producing State and as a member of the Finance Committee who cast the deciding vote in favor of the Boren amendment, I will vote against the Weicker amendment to strike for two reasons:

One, I voted for the Boren amendment because I feel that, under our federated system of States, whenever any State is in real trouble, the other States need to go to the assistance of that State. Oklahoma, and some of the other oil-producing States, are in real trouble today. We should go to the assistance of Oklahoma and the other oil-producing States which are today struggling to maintain their economic life.

Second, giving the needed assistance to the oil-producing States at this stage in their struggle to avoid economic disaster is in our national interest. Until such time as we are able to produce alternative energy to sustain the needs of this Nation of ours, we must keep producing that fuel, that energy, which is now the basis of our economy, and that is oil. For these reasons, I urge my colleagues to vote against the Weicker amendment.

The PRESIDING OFFICER. All time has expired.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD some material that indicates that the cost of this particular clarification is $1.4 billion over 5 years. The other matters mentioned would total up to $245.6 billion over 5 years.

So if we want equity, it will be in the RECORD for those to see it in the morning.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

According to the Joint Tax Committee's estimates of Federal tax expenditures.

Working Interest Rule

	Amount [1]
Tax credit for historic structures	8.9
Inside buildup on life insurance and annuities	33.2

	Amount [1]
Completed contract accounting	27.2
Tax credit for nonhistoric structures	2.5
Exclusion for employer-provided health insurance	161.9
Exclusion for group term life insurance	11.9
Total	245.6

[1] $1.4 billion over 5 years.

Mr. DOLE. Mr. President, if we really wanted to reform the Tax Code to make it neutral we could reduce the individual maximum rate to 23 percent, not 27 percent; and we could reduce the maximum corporate rate to 29 percent, not 33 percent and we could do it while still saving the mortgage interest deduction.

But we would have to do a lot more than repeal the working interest rule.

Mr. NICKLES. Mr. President, I move to table the amendment of the Senator from Connecticut and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma [Mr. NICKLES] to table the amendment of the Senator from Connecticut [Mr. WEICKER].

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS] and the Senator from South Dakota [Mr. PRESSLER], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 20, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—77

Abdnor	Exon	McConnell
Andrews	Ford	Melcher
Armstrong	Glenn	Moynihan
Baucus	Goldwater	Murkowski
Bentsen	Gore	Nickles
Biden	Gorton	Nunn
Bingaman	Gramm	Packwood
Boren	Grassley	Pryor
Boschwitz	Hart	Quayle
Bradley	Hatch	Riegle
Bumpers	Hecht	Rockefeller
Burdick	Heflin	Roth
Byrd	Heinz	Sasser
Chafee	Helms	Simon
Chiles	Humphrey	Simpson
Cochran	Inouye	Specter
Cranston	Johnston	Stennis
Danforth	Kassebaum	Stevens
Denton	Kennedy	Symms
Dixon	Kerry	Thurmond
Dole	Laxalt	Trible
Domenici	Long	Wallop
Durenberger	Lugar	Warner
Eagleton	Matsunaga	Wilson
East	Mattingly	Zorinsky
Evans	McClure	

NAYS—20

Cohen	Dodd	Hollings
D'Amato	Harkin	Kasten
DeConcini	Hatfield	Lautenberg
Leahy	Mitchell	Sarbanes
Levin	Pell	Stafford
Mathias	Proxmire	Weicker
Metzenbaum	Rudman	

NOT VOTING—3

Garn	Hawkins	Pressler

So the motion to lay on the table amendment No. 2073 was agreed to.

□ 1850

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, if we could have the attention of our colleagues——

The PRESIDING OFFICER. Will the Senate please be in order?

Mr. DOLE. Mr. President, I wanted to indicate to my colleagues I have discussed with the distinguished chairman of the committee, Senator PACKWOOD, the schedule for the remainder of the day. He would like to continue this evening. We are making progress. I believe there are amendments which are ready to be proposed. Hopefully, we can speed up some of these amendments. The last amendment took 4 hours. The vote was 78 to 18, or something like that. Perhaps we can speed up the amendments.

As I understand, the chairman is prepared to go to 10 o'clock or 12 o'clock tonight.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. FORD. Mr. President, would the distinguished Senator from Washington give me 1 minute?

Mr. EVANS. Yes.

The PRESIDING OFFICER. The Senator from Kentucky.

KENTUCKY BABY NEEDS A HEART

Mr. FORD. Mr. President, the national media has focused in recent days on the plight of Baby Jesse, a California infant that needed a heart. A heart was found through that publicity, hopefully saving that precious young life. However, I feel a need to bring an infant in Kentucky to the Nation's attention. This baby, suffering from a fatal heart disease, was born the same day as Baby Jesse, and has been on the nationwide organ-recipient list since May 31.

The infant at Kosair Children's Hospital in Louisville is known simply as Baby Calvin. Doctors there say he suffers from the same disease that afflicted Baby Jesse, and that about 95 percent of infants born with the disease die before they are 2 months old. According to physicians, Baby Calvin "could die at any time" and has a few weeks at the most unless a donor heart is found.

Mr. President, in light of Baby Calvin's condition, I felt it my duty to mention this dire situation in hopes that a heart can be found.

Mr. President, I ask unanimous consent that an Associated Press story related to Baby Calvin being No. 1 on the list of heart recipients be printed in the RECORD.

I think it is important that if the publicity is going to help an infant, I ought to do my best here this evening.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BABY CALVIN

(By Janet Cappiello)

LOUISVILLE, KY.—The family of a baby with a fatal heart disease whose name was ahead of Baby Jesse's on a nationwide organ-recipient list is agonizing that their decision to stay anonymous may have been wrong, officials say.

"They may feel the reason they are not being chosen is because they didn't have someone call directly about them, or they haven't been on the news, they haven't been in the newspaper and maybe they need to do that to get a transplant," Nan Hamlyn, who coordinates the University of Louisville's organ-procurement agency, said Wednesday.

The infant at Kosair Children's Hospital, known simply as Baby Calvin, suffers from the same disease that afflicted Baby Jesse, said Dr. Constantine Mavroudis, the surgeon who will perform any transplant.

Both were born with hypoplastic left heart syndrome, a congenital defect that does not allow the left side of the heart—the main pumping chamber—to develop properly.

About 95 percent of infants born with the disease die before they are two months old, Mavroudis told a news conference Wednesday night.

He said Baby Calvin "could die at any time" and has a few weeks at the most unless a donor heart is found.

The 3-week-old infant has been on the nationwide organ-donor network since May 30, before Baby Jesse's name was added. Both babies were born May 25.

Jesse received the transplanted heart of a brain-dead Michigan infant Tuesday night in a flurry of nationwide publicity. The heart was donated after the parents heard TV news accounts of Jesse's parents' pleas for a heart transplant for their infant.

Loma Linda University Medical Center in California initially refused to schedule a transplant because it didn't believe Jesse's unwed parents could care for him properly after the operation.

"They (Calvin's parents) are frustrated. They wondered, too, if they would go public and divulge their names and say they are waiting would that help? Their main interest right now is their baby," Hamlyn said.

The heart donation for Baby Jesse apparently was handled directly between hospitals rather than through the organ-procurement network, she said. Mavroudis said the heart that went to Baby Jesse would have been "a good candidate" for Baby Calvin.

The Grand Rapids, Mich., doctor who arranged to donate the heart of Frank Clemenshaw IV to Jesse said Wednesday that the parents specifically asked that it go to him. He also said he didn't know that Calvin had been on a nationwide transplant list first.

Mavroudis said Baby Calvin's parents are electing to remain anonymous and work within the organ procurement system.

"We assume that the network will work," Mavroudis said. "I don't know what happened or whether there were any other appropriate reasons why that heart went to (Baby Jesse) and not here."

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2074

(Purpose: To allow a taxpayer to elect to deduct either State and local income taxes or State and local sales taxes)

Mr. EVANS. Mr. President, I will shortly send an amendment to the desk. Before I do, I would like to take this moment to express my sentiments, which I am sure are shared by virtually everyone in this Chamber, over the remarkable work of the chairman and the committee in bringing to the floor a tax bill of this magnitude, a tax bill that is so evenly spread for the most part in terms of its effect on the citizens of this country. It does simplify it, it does lower rates remarkably. It does allow people to make decisions based on economics rather than tax purposes. For all of that, I share the gratitude of many millions of Americans who, when this tax bill is passed, will reap its benefits.

That does not mean that I felt at the beginning, when the bill came from committee, that it was perfect. Mr. President, I doubt that anyone in this Chamber feels that the bill is perfect.

I have shared the responsibility, along with many others, of attempting to keep this bill from being amended, amended in a way which would seriously jeopardize some of the balances which have been introduced into the bill. I share very much the desire of those who would keep the bill largely intact as a strong message to the conference committee and to the House of Representatives and to give the best possible chance of being signed into law.

With that, Mr. President, I do feel that we have devised an amendment that corrects an inequity which, perhaps of necessity, crept into the bill, but which we believe we can correct and correct without doing damage to any part of the bill or the elements that the coalition so rightly wish to protect.

With that, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and Mr. GRAMM, Mr. GORTON, Mr. LAXALT, Mr. ABDNOR, and Mr. PRESSLER, proposes an amendment numbered 2074.

Mr. EVANS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1415, beginning with line 6, strike out all through page 1416, line 4, and insert:

SEC. 135. ELECTION TO DEDUCT STATE AND LOCAL INCOME TAX OR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Paragraph (4) of section 164(a) (relating to deduction for taxes) is amended to read as follows:

"(4) At the election of the taxpayer, either—

"(A) State and local income taxes, or

"(B) State and local general sales taxes."

(b) SPECIAL RULE FOR TAXES IN CONNECTION WITH ACQUISITION OR DISPOSITION OF PROPERTY.—Section 164(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN NONDEDUCTIBLE TAXES.—In the case of any tax which is paid or accrued by the taxpayer in connection with the acquisition or disposition of any property and with respect to which no deduction is allowed under this chapter, such tax shall—

"(A) in the case of the acquisition of property, be included in the basis of such property, and

"(B) in the case of the disposition of property, allowable, as a deduction in computing the amount realized on such disposition."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 164(a) is amended by striking out "State and local, and foreign," and inserting in lieu thereof "Foreign".

(2) Section 164(b)(2)(D)(ii) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(4)(B)".

On page 2267, strike out lines 8 through 13, and insert:

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which—

"(i) is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer, and

"(ii) was incurred—

"(I) in acquiring, constructing, or rehabilitating or improving such qualified residence or another qualified residence of the taxpayer,

"(II) to pay for expenses for medical care (as defined in subparagraph (A) or (B) of section 213(d)(1)),

"(III) to pay for expenses of the taxpayer or a child of the taxpayer for tuition and books at an institution of higher education (within the meaning of section 3304(f)), or

"(IV) to refinance any indebtedness described in subclause (I), (II), or (III) to the extent the principal amount of the indebtedness does not exceed the sum of the principal amount of the indebtedness being refinanced and the cost of such refinancing.

Mr. EVANS. Mr. President, very simply, in our drive to simplify the tax system, we have reduced in many, many ways the opportunity for citizens to deduct from their adjusted gross income various elements that would reduce the taxable interest on which they would ultimately pay taxes. We have eliminated many of those deductions because in trade for it, we were able to reduce the marginal rates of taxation and reduce them radically. However, in the process, we did not allow citizens of this country across the board to deduct the local taxes they pay in all respects. We gave to citizens of every State, and all 50 States do have property taxes at the local level, the chance to deduct those property taxes. We gave the citizens of those States which have local and State income taxes the opportunity to deduct these income taxes. We did not give to the citizens of any State the opportunity to deduct the sales taxes they pay.

This may sound like a small thing, but it is not small at all in a State like Washington which has no income tax, which depends very heavily on a sales tax for the basic support of State government and which, incidentally, is one of the two or three highest States in the Nation in the State support of its common school education system. That basic support in Washington comes largely from the sales tax. I think it is grossly unfair to ask that the citizens of this State bear the burden of local government—education, all of the services of their cities and counties—and not be able to deduct from their taxes the same kinds of revenue that are provided for the same benefits in other States. The fact that citizens in other States can deduct their income taxes is just fine. We ought to have that same privilege in Washington.

This amendment would merely give taxpayers of all States a choice: Either to deduct their sales taxes or to deduct their State taxes, but not both. In States like Washington and seven others which have no income tax, obviously, sales taxes would be deducted. In half-a-dozen other States where the income taxes are very small or limited, most citizens would clearly deduct sales taxes. In a few States that have no sales tax at all but all income taxes, obviously the citizens would deduct those. In many States, citizens would probably split, some opting for the income tax, some for the sales tax.

This would correct at very small cost a gross inequity in the tax bill and I think make it a better bill and not do damage, in my view, in any respect to the goals the managers of this bill seek and that the members of the Finance Committee so rightly have tried to protect.

Obviously, it does not come without cost, $3.3 billion over 5 years. That is small but still noticeable and we have chosen to finance it through what the staff and experts on the tax committee tell us is a responsible and worthwhile addition to the Tax Code. I shall not detail that but allow my colleague from Texas to do so.

I believe this opportunity to give people a chance to take their home mortgages, to refinance them and

then use the proceeds to buy nonreal-estate oriented goods—in other words, to take an additional mortgage out on your home, buy a boat, buy a car—and deduct the interest payments on that additional mortgage is a privilege we will not allow in the new tax bill to a person who goes in and gets a consumer loan and buys that same boat or that same house. I think what is fair for one ought to be fair for the other. I believe this amendment will accomplish that. It will raise precisely the amount of money necessary to balance this in the true spirit of Gramm-Rudman and our balancing act that we must maintain.

Mr. President, I believe this is a responsible amendment that should have the support of virtually every Member of this body.

Mr. GRAMM. Mr. President, I am delighted to join with my colleague from Washington [Mr. EVANS] in cosponsoring this amendment. This amendment tries to deal with what I perceive to be the largest inequity in this bill. That inequity does not come from any design. It simply resulted in the legislative process where two types of State and local taxes were allowed to be deducted but the third type of State and local taxes was not.

I submit that there are few in this body who believe that the Federal Government should be picking and choosing among State and local tax sources in terms of deductibility. I submit that most of our colleagues, on the basis of fairness, would say that they ought all to be deductible or none should be deductible. We have ended up with an unfair provision that says that property taxes and income taxes at the State and local level are fully deductible but sales taxes are not. That greatly discriminates against States that have large sales taxes but not large income taxes. I do not believe that this is what Congress intended when it aimed at being fair

The amendment we have submitted seeks to deal with that program by allowing individuals in any State to decide whether they want to deduct income taxes or sales taxes. It does not completely correct the problem but it eliminates the largest amount of inequities that occur especially in States that use high sales taxes but have virtually no income taxes.

The cost of this modification is about $3.3 billion, whereas simply repealing the provision of the bill that precludes sales taxes would cost about $17 billion over a 5-year period. We think that this is a moderate amendment, a reasonable amendment, and we are hopeful that it will be adopted.

How do we pay for this amendment? As we all know, a point of order lies against an amendment that would raise the deficit, so we seek to pay for it by closing what I believe is an unintended loophole. There is no basic principle in tax law that is more supported by the American people than the principle that you ought to be able to deduct interest on your home from your taxes. We have taken a position that home ownership is something that we want to promote, that that is an objective of our tax policy that is strongly supported, and it is reflected in this bill by the fact that you can deduct your mortgage interest payment on a first and second house, a primary and a secondary residence.

There is, however, an unintended loophole in the bill. This loophole allows an individual to go out and get a second mortgage and buy a boat or a fur coat or go on a vacation, loans that if obtained specifically for those purposes, would not have the interest deductible. What we do in this bill is close that loophole by allowing interest on the mortgage on one house, the primary house, and interest on mortgages on the second house to be totally deductible so long as those mortgages are for the purposes of buying, constructing, rehabilitating or improving a qualified residence, or to purchase another qualified residence.

□ 1910

So that so long as the mortgage is for the purpose of buying one or two houses, so long as it is for the purpose of constructing, rehabilitating, and improving a qualified residence, then it is fully deductible. We also have a provision which allows an individual to borrow against his home for medical purposes or for funding education for himself or his childen. But we specifically disallow the interest deduction on mortgages that are aimed for other purposes.

I believe, Mr. President, that this improves the bill quite aside from eliminating the unfairness of not allowing sales taxes to be deductible at the same time that we are allowing income taxes and property taxes to be deductible. We close a loophole that will be subject to great abuse as people fund auto purchases, vacations, and even their credit cards by tying it into their mortgage loan. That is not the intention of this bill in terms of allowing mortgage interest payments to be deductible, and I believe by closing that loophole we greatly improve the bill.

So the objective here is to eliminate an inequity in the bill that does not allow taxpayers in States with high sales taxes to deduct those sales taxes whereas taxpayers in States with income taxes and property taxes can enjoy those deductions.

This bill partially eliminates that inequity by allowing a taxpayer to choose between sales taxes and income taxes and for those States that have high sales taxes and virtually no income taxes it supplies some relief.

Second, we fund it by closing an unintended loophole in the mortgage interest deduction that will allow people to borrow against their home and to deduct interest on loans that are in effect for automoblies, for vacations, for other uses that would not be under this bill tax deductible in terms of the interest payment.

I urge my colleagues to support this amendment.

Mr. BOREN and Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, at the outset of the debate on this historic tax reform proposal, the distinguished senior Senator from New Jersey, who is present on the floor at this time and who can perhaps properly claim to be the Senate father of the tax reform idea, made an eloquent statement on behalf of the whole bill before us. He has emphasized most strongly not only the positive economic impacts of the bill but its essential fairness. It is, of course, the question of fairness and the question of the perception of the American people of the lack of fairness inherent in our present tax system that has brought us to this debate.

The distinguished senior Senator from New Jersey pointed out that one of the principal goals of this bill was to ensure that every American citizen paid his, her, or its fair share of our tax burden.

(Mr. GRAMM assumed the Chair.)

Mr. GORTON. One element in this bill, however, is very clearly not fair. It is that element which this amendment seeks to correct. It is not fair to tell the citizens of one State that they may deduct on an individual return all of their State tax payments, 100 percent of them, and to the citizens of another State that they may take no deduction whatsoever for the principal tax which they pay, a tax which is for identical purposes as those of the taxes paid by citizens of the first State—for schools, for colleges and universities, for institutions, for parks, and the like. It is simply unfair to tell the people of my State and of the State of the distinguished Presiding Officer and others that they are going to be treated differently and in a discriminatory fashion.

If this bill should pass unchanged, taxpayers in precisely the same situation with precisely the same incomes and standards of living in one State will pay substantially greater taxes than in another because in the first State they are not permitted to deduct their principal State tax and in the second they are.

That is not fair. It is not an appropriate element in a fair tax bill.

The specific deduction for State sales taxes is, Mr. President, the most popular of all present deductions in the income Tax Code. It is utilized by

more taxpayers than the number who utilize charitable contributions, property taxes, or even interest on home mortgage loans.

As a consequence, we are attempting to cure at least the worst of the inequities which are present in this disparate treatment of State taxes in the present bill. We do not, I regret to say, cure all of them. We do, however, offer to the citizens of every State at least the opportunity to deduct the principal tax which they pay for the general support of State government. It will benefit citizens in more States than the handful represented by those members whose States have severe or heavy sales taxes and no income taxes at all. Even in States in which the burden of the income tax is greater than that of the sales tax by margins of 2 or 3 to 1, there will be a number of individual taxpayers who, for one reason or another, pay more in sales taxes than in income taxes and will therefore be benefited by this proposal. My rough guess is that some citizens in at least 35 States will be benefited by the proposal in addition to its greater equity, and no individual citizen is going to be disadvantaged with respect to this State tax deduction.

I want to make one other important comment in connection with this debate, Mr. President. In addition to its most fundamental fairness—both the Senator from Texas and my own colleague from Washington have emphasized what they think is the most important part of this, fairness—citizens should not be discriminated against on the basis of where they live and on what kind of tax systems their States have adopted. Nevertheless, there are some who have been in the coalition who would like to restore the complete deductibility of all State taxes who are restless with this provision, this partial restoration.

My very, very good friend, the Senator from New Mexico, who is present, is among that group. So is the very distinguished and eloquent senior Senator from New York. I simply want to say that the adoption of this amendment by the body which removes most of the unfairness inherent in the current bill will not reduce my commitment to them to see to it that all taxes, all State taxes from the perspective of their deductibility are treated equally by the time we, the conference committee and both Houses finish their debate on this bill. My commitment to that coalition is not finished.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. GORTON. I will yield for a question from the Senator from New Mexico.

Mr. DOMENICI. I would ask my good friend from the State of Washington if he has any idea who made the following statement and when:

Elimination of any one tax deduction would have an uneven effect on taxpayers among the States. In addition, since States and local governments would likely increase reliance on the remaining deductible taxes, disallowing deductions for particular taxes is likely to lead to sizable distortions in State and local revenue mixes. For example, allowing only the sales tax deduction might force a State like Washington that relies heavily on general sales taxes but does not have an individual income tax to adopt one.

Might I tell the Senator that that was stated by President Ronald Reagan in May of 1985 when he sent the tax reform package to the U.S. Congress for our consideration. I think the Senator is making that exact point tonight. I chose it because in addition to making the point for all of us, the President chooses Washington to refer to since it is a State that in the spirit of federalism does not have any income tax. That is its prereogative, as I understand it. The President was totally cognizant of the potential unfairness of eliminating the sales tax. He used a very mild word, would treat States "unevenly" and would cause distortions. We think it has a much worse effect than "unevenness."

□ 1920

We think it is unfair. We do not think it is fair at all for States with no income tax, States like mine with 3 percent reliance upon sales tax, to find ourselves in the position on the floor with a good bill, good for all America, strangely enough not as good for the residents of some States as for the residents of others. That is basically unfair, as we see it.

I gather that the Senator agrees with the Senator from New Mexico.

Mr. GORTON. I am delighted that the Senator from New Mexico did not require me to answer his question but gave me the source of the quotation, which is obviously correct, and which comes from the most prestigious source, the President of the United States.

Suffice it to say that the position taken by the Senator from New Mexico is entirely and completely correct.

Mr. DOMENICI. Mr. President, obviously the Senator from New Mexico rises in support of this amendment, although I must say to the Senate that it does not do total fairness to my State. The right to choose means you can choose the deductible tax as between income and sales in your respective State. The right to choose permits you to deduct the larger of those two items from the standpoint of your Federal return.

Nonetheless, it is better than nothing, and it is better than what we have in the bill before us. It does not cost a lot of money. I am not fully familiar with how the money is made up in this amendment. I understand it to some extent. I do not pass judgment on whether that is the best way to pay, in a tax sense, for this right to choose, which is what we have encapsulated in the measure that the distinguished presiding officer introduced along with other Senators. I join as a cosponsor.

I see no reason why we should end up with a tax reform package, when we are finished here and finished in the House, and bring it back to the U.S. Congress for their final OK, and off to the President—I see no reason why we cannot treat all the States and their particular taxes—property, sales, and income—exactly the same. Treat them all at 100 percent. I think fairness is to give all those kinds of local taxes 100 percent OK.

Frankly, we are going to hear, by those who are opposed to this—not on the real estate tax part, not on how we pay for it, but on the basic amendment—we will hear all kinds of arguments; that a lot of people do not take the sales tax deduction. We will hear arguments that it is a deduction for the rich. We will hear that it is not used very much in the country.

I will guarantee you that for people in my State, that is unconvincing. It means they are going to be paying more taxes to the U.S. Government for the same income as compared with one of their friends 300 miles away in the State of Colorado or the State of New Hampshire or perhaps up the road in Oregon. I am not sure that each of those benefits within the original bill, but surely they are going to have friends and neighbors somewhere who will have the same income and same deduction yet be treated differently by the U.S. Senate.

I was prepared to talk about how many people use it, if it is said that it is something we ought not worry about. I have all those numbers.

If you think the charitable deduction as an itemized deduction is an important one, less claim it than claim the sales tax! If you take the particularly sacred one, deductibility of interest on your home mortgage, is an important one, less people, in terms of tax returns, claim it than claim sales tax. If the argument is going to be made that people do not keep good enough records and therefore cannot take it, at least we should give them the opportunity, under this new law, to see what is important for them.

In addition, those who do not keep records use the little table that the Treasury Department gives to each taxpayer. We use it, and I am sure a lot of people use it. It probably is too stingy that is why they chose it. If you do not save your receipts and documents, they give you a table they are sure is right, but obviously you are entitled to more. Maybe the answer to that is to seek a better table from the Treasury Department for taxpayers so

that they will be able to deduct a more realistic percentage of the gross income in terms of sales tax.

So I am going to vote for this, but ultimately I intend to bring to the Senate a resolution that says to the U.S. Senate: "When you go to conference, we expect real fairness when you finish this bill."

I say here tonight that half a loaf, or a little more than half a loaf, depending upon how you look at it, is obviously better than none. But I do not see that as a victory. I see that only as a signal that we are ready, even in the most rigid of amending circumstances, to move one step toward it. It is better than nothing, sending a clear signal that we do not like the unfairness of saying to New Mexicans, "You can't deduct a local tax," but saying to someone else, a State that has only income and property tax, "Yes, you can; it is more important to you."

I hope nobody stands up tonight and says to the U.S. Senate: "We think we want to tell the States what to do. We do not like a sales tax." Would that not be something? Here is a body claiming Federalism. It got its very birth by saying that we get two Senators from each State, and that the States should be represented here. What did that mean? That meant that at least we wanted to recognize the basic principles of Federalism.

The bill before us does not do that. The amendment corrects it halfway—not as far as it ought to be, but sends a nice signal that we are not satisfied with this.

It will help the State of Texas, the State which the distinguished occupant of the chair represents, because they do not have any income tax. It will help the State of Washington because they do not. So, when they make this choice, they are obviously choosing the only local tax they have. We all get property taxes. That is good. I am on their side. We have won a victory for those States, but a lot are left out even by this amendment.

With reference to why we put local tax deductibility as a concept in the bill at all, we did not put it in there just because we like to let people take deductions. There has to be some reason for it, some philosophy for it. Obviously, the philosophy is that we do not want to make it harder for our States to provide police protection, to provide education which they pay for with local taxes. About 91 or 92 percent of all the education dollar comes from property, sales, and income taxes at the local level. We do not want to make it harder when the taxpayer says: "We don't want any more taxes. We want them lowered, because we can't deduct them anymore"; or, the next time you need an increase in some State, we do not want the taxpayers saying, "We don't want to vote for school money because we can't deduct it anymore."

The opposite of that is that we want to make it as neutral as possible, consistent with what we have been living with for the last three or four decades, for local initiatives, local objectives, and needs to be solved with local taxes.

□ 1930

Is that not right? I believe the answer is, "Yes."

If the answer is "Yes," why do we do that for part of the States of the Union, part of the activities out there? As a matter of fact, for some States we say "Right on; you get the whole thing because you chose not to have sale tax." But for those that have a sales tax we are saying: "That is the wrong philosophy. You do not count. We leave you out."

I just do not think that is fair.

Ultimately, because we are all interested in the tremendous reform in this bill. It is a gigantic step toward simplicity and fairness which are the cornerstones of our tax system. Without it we are not going to get people complying and paying. This is sometimes referred to as broadening the base. While this Senator congratulates those who put the bill together, and while he intends to vote for it on final passage, I think it has a major flaw. I really believe that in spite of all of those things that are said about this bill, this basic bill before us, there is a major flaw. It takes on an air of unfairness and for anyone to stand up and say, "But, you know we treated alcohol tax out there in the States differently, or we treated gasoline tax differently." That is not really the issue.

The three basic tools for paying for the urgent local services, including education, are property, sales, and income taxes.

So I hope that everyone will join in this. If they cannot vote for this amendment, vote for the resolution, but in the end when this thing gets wrapped up and we are saying we have completed our work, sending a bill off to the President, let us get rid of the one bad, bad stigma attached to it, that a number of States in the Union and their citizens are treated unfairly in what is otherwise an eminently fair bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. EVANS. Mr. President, will the Senator from Oklahoma yield for just 1 minute to make a technical correction?

Mr. BOREN. I am happy to yield.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I ask to modify my amendment on line 1 in the instructions where it refers to page 1415 beginning with line 6, it should be line 10 rather than line 6.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I have listened with great interest to the comments just made by our colleague from New Mexico and the comments made earlier by the Senators from Washington.

I understand what they are saying, and I am a strong supporter of the Federal system.

I hope that we will find a way in the conference committee to deal with this particular problem.

Before my colleagues rush to vote for this amendment, I hope they will very carefully examine how the provision is being paid for. It is in the manner in which it is being paid for that causes me grave concern.

Part of the revenues raised to pay for this provision would limit the right of homeowners to deduct their home mortgage interest payments. If a homeowner decided to refinance his home for one reason or another, he would then be limited in deducting additional interest payments on the amount that he had refinanced, the additional financing, the additional borrowing against his home, unless he was using that additional amount of money which he financed on his home solely for medical expenses or for the college education of his children.

One of the most important assets that any American has is the equity which he has or she has in the family home. Millions and millions of Americans, in essence, have their life savings in the equity represented in the value of their home.

I do not think it would be right for us to sit here and try to anticipate every single emergency that might arise in the life of a family. If an American has invested in that home, used the equity in that home as his principal means of savings, then I think whatever the emergency, he should be able to use that savings pool. He may have to refinance his home. Perhaps it is not just to educate his children or pay for some medical expense. Perhaps his parents, who are senior citizens, need additional financial help. So he has to go back in and refinance the family home in order to borrow additional money to meet those family responsibilities.

In this day and time, it is hard for younger people to afford a home. Perhaps the son or daughter in that family gets married. They are getting ready to try to buy a home. The parents decide to refinance their home in order to take some of those savings that they have in equity value in that home and help their children come up

with a downpayment on a home of their own.

Perhaps that homeowner operates a small business in some area of the country which is undergoing economic stress. They are about to lose that small business. They are about to be forced to close its doors. So they decide to refinance the family home to come up with a little bit more money out of that equity value of the home so they can keep that small business alive and perhaps employ their one or two employees.

There is no way in the world administratively that you can make something like that work.

While I am very sympathetic to the points that have been made, and as a former Governor I am sympathetic to the argument, and I hope the conference committee will be able to do something about it, that we allow the revenue base of the individual States to remain intact, that we treat citizens of one State the same as we treat citizens of another State, I am very sympathetic to all that. I must say with all honesty I am very concerned about the way this amendment is being funded and I am very worried that we are going to create undue problems for millions and millions of Americans who have allowed the equity value of their homes to increase and who regard that as the savings pool on which they could draw in case of an emergency.

There are all sorts of reasons why an individual citizen might decide to refinance his home. Yet under this bill even though the equity value of that home represents the principal savings for millions of Americans, if this amendment were adopted, we would say if you refinance your home, you can no longer deduct the interest that you are paying on the additional amount beyond the original purchase price that you are refinancing except solely in the cases of borrowing that money to educate your children or to pay additional medical expenses.

I do not think that is wise. I think that is an undue restriction on the ability of the American people to dip into their savings represented by the equity value of their home. I also think we are creating——

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. BOREN. I will yield in 1 minute. I also believe we are creating a nightmare from an administrative point of view. We know that the Government only has the ability to audit a certain portion of the returns, perhaps 1 percent.

How in the world are we ever going to enforce a mechanism which limits the reasons for which people can refinance their homes in this country? How is it ever going to be workable? If you audit that particular return, how are you going to prove that the expenditure was for the education of the child or medical expenses if there is indeed another list of 10 other major items of expenses in that family, that the additional borrowing was for that purpose rather than for another purpose?

If they have borrowed money by refinancing their home but they are also paying on an automobile, they are also paying, let us say, out on the small business they are trying to buy, they are sending $1,000 a year back home to their elderly parents to help them, how in the world are you going to tell that that additional borrowing was for the purpose of education, if they are also educating their children as opposed to buying an automobile or making a payment on their small business or helping their parents?

I do not think we should sit here in Washington and tell the American people how they should use their own savings. That is going to discourage people from owning homes and having equity value in homes in the future, and I do not think that is something we want to discourage.

I am happy to yield to my colleague.

Mr. SYMMS. Mr. President, I want to first compliment my colleague on the committee for a very excellent, and I think a good description of the situation. He makes the point that money is fungible and it is going to be an absolutely impossible task for any auditors to figure out what people do with this money. I think that is the question.

The first question I wanted to ask was that one. The Senator made the point very well and I compliment him.

In addition, this amendment is unfair to homeowners in all 50 States, which is really the point the Senator is making. It is unfair to homeowners in all 50 States to pay for it the way this amendment does.

I happen to be from a State that has a sales tax, we have an income tax, and a property tax. So we have an evenly distributed taxing system. I am sympathetic, as the Senator knows, on the States' rights question.

However, if we are going to amend this bill to raise revenue, would the Senator not think that the revenue should be used to reduce rates for all Americans, instead of trying to just specify a few people in a few States?

□ 1940

(Mr. EVANS assumed the chair.)

Mr. BOREN. I would agree with my colleague. I appreciate his question.

I think he is also very right to emphasize the point that in paying for this amendment, we are really being unfair to the homeowners in all 50 States. We are talking about all Americans who own homes who are going to be potentially impacted by it.

Mr. SYMMS. If we take away that deduction from homeowners, that privilege of having that savings pool, we ought to distribute it to all taxpayers.

Mr. BOREN. Well, I think the Senator is absolutely correct. And I know that the Senator from Idaho, from his record here in the Senate, has been opposed to undue intrusion by Government into the personal affairs of American citizens in the first place.

For us to sit here and say we cannot anticipate, as a congressional body, every kind of financial emergency that any American citizen might have and then say that that citizen can only use the savings represented by the value of his home in certain very limited circumstances, I think is absolutely the wrong thing for us to do.

There are all sorts of socially beneficial reasons why a citizen might need to borrow against the value of his home, might need to refinance that home in order to take care of a particular urgent problem that that citizen might have. I do not think we should limit the right of a citizen to do that. I think it would be very unwise.

I am very sympathetic to the problem that has been raised here, but I do not think this is the way to solve it at all. I hope that my colleagues will take the time to read the fine print and to understand the problems that are being created by this amendment. In order to solve one problem, we are creating additional problems that I think are far more severe and we are creating another layer of bureaucracy. We are creating another unauditable feature in the Tax Code, an additional complexity, at the very time in which we are trying to move toward fairness and simplicity in a system that will work.

I urge my colleagues to carefully read this amendment. On the surface, there might be many reasons why we would be sympathetic for it, but I think, when we read the fine print, we will see it will not be in the national interest to adopt it.

Mr. GRAMM. Mr. President, let me first straighten a few things out. If you own a home, you can borrow money against that home for any purpose. There is nothing in this amendment that in any way limits the ability of a person to borrow money against their home.

But let me go back and clarify what the ability to deduct your mortgage interest payment is about. This bill sets out very strict limits on what interest payments are and are not deductible. And one of the areas where it is very specific is that consumer interest payments are not deductible.

Now, what this amendment says is this: If you borrow money against your home to buy a second home, to improve your home, to rehabilitate your home, to add on a bathroom or a porch, to in any way improve your

home, then the purpose of the loan is home ownership, home improvement, and that is what we are giving a tax deduction for.

But let me remind my colleagues that no sooner had this bill been crafted to eliminate the ability to deduct consumer interest—an important principle of this bill—than we started seeing ads in newspapers and hearing them on the radio about how you can borrow money against your home for all kinds of purposes that are not tax deductible and those loans will be tax deductible.

Now, I ask my colleagues: If our purpose in allowing interest payments on homes to be tax deductible is to encourage home ownership, and clearly it is, then, that is a principle we all agree on. When we were considering tax reform, no one seriously proposed eliminating the mortgage interest deduction.

When this bill specifically precludes consumer interest from being deductible, when this bill specifically precludes you from going out on your American Express and buying a fur coat and deducting your 18½-percent carrying charge, why should we allow a loophole to exist where people get a second mortgage against their home to pay off their American Express card? If the objective of the mortgage interest deduction is to encourage home ownership, why should we subsidize fur coat purchases? Why should we subsidize loans for vacations simply because the home is used as collateral? What sense does that make? Is that not a perversion of what the whole ability to deduct mortgage interest is about? I believe that it is.

In fact, Mr. President, we have already seen advertising in newspapers pointing out that, under this bill, you will be able to use your home as collateral and make consumer interest deductible—something that is specifically prohibited in this bill.

So let me clarify to my colleagues what this amendment does and what it does not do.

No. 1, this amendment in no way lowers the value that you have in the Tax Code of your ability to deduct your mortgage interest payment. If your objective is to acquire, to construct, to rehabilitate, or to improve a home or to do the same things with a second home, the mortgage interest rate deduction is in every way preserved by this amendment.

No. 2, this amendment, in an effort to be fair and reasonable, adds two exceptions that have nothing to do with mortgage interest but to try to cover those emergency situations: medical care expenditures and the taxpayer's expenditure for himself or his children for education.

If somebody goes out and gets a second loan to go on a vacation and they cannot go to the bank and borrow the money to go on a vacation to deduct the interest, then why should we allow this loophole to exist where interest payments for a vacation will be deductible because a home is used as the base against which to borrow?

Now I go back to the point of the distinguished Senator from Oklahoma. Obviously, people ought to be able to mortgage their homes anytime they want to. People have a home as an asset. We do not disagree with that.

But the question is: Should that home, as an asset, when a loan is made against it, should that loan have its interest deductible? What we are attempting to do in this amendment is to close a loophole that was clearly unintended, that loophole is clearly going to create tremendous abuses as people try to get around the provisions of this bill that was agreed to by a vote of 20 to 0 coming out of committee. This provision forbids the deduction of interest payments on consumer credit. Unless this loophole is closed, people will be able to use a phony home mortgage to get the interest rate deductible.

So not only are we trying to provide equity here, in terms of not treating people in Texas, in Washington, and a dozen other States as second-class citizens because they choose sales tax over income taxes, but we are also closing a loophole in the bill that simply cries out for abuse and that is so evident that we are already seeing advertising as to how people can beat the intent of this bill by using their home as collateral and, in essence, deduct interest rate on consumer credit.

Finally, the question has been raised about enforcement. We have met today with the Treasury Department. They have assured us that they can enforce this provision. In fact, we already have precedent in law. For example, under section 461(g), if you go out and acquire a home, you can deduct the points on your mortgage from your income this year in calculating your taxes if the purpose of the loan is to acquire or to improve a home, exactly the principle set out in this amendment. But, on the other hand, if the mortgage is for some other purpose, then you have to amortize the points over the life of the loan, the principle being basically the same, the enforcement procedure being basically the same, requiring the person who claims the credit to demonstrate what the credit is being used for, to, in fact, prove that the interest payment is coming about as a result of an effort to buy a home, to improve the home, or for these two other minor purposes.

□ 1950

So I submit to our colleagues in the Senate that the objective here is not to limit your ability to use your home as an asset against which to borrow. That is not the point. You can use your home as an asset to borrow against. But if the borrowing is for a nondeductible purpose you cannot, simply by getting a second mortgage, make that interest deductible. That circumvents the whole intent of this bill.

Mr. BRADLEY. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. BRADLEY. Just so we can clarify specifically what would be deductible, and what would not under his amendment, if the Senator had a mortgage of $50,000, refinanced that mortgage, took $60,000 and wanted to use $10,000 to give to his children to make a down payment on their first home, could he deduct the interest on the $60,000?

Mr. GRAMM. Under the provision of the loan being for another qualified resident of the taxpayer.

Mr. BRADLEY. But as I understand the reading of it, it has to be of the taxpayer. This is the children of the taxpayer.

Mr. GRAMM. If the Senator will yield back, I will respond. You could not under those circumstances, though the person who is buying the home could get a mortgage, and that mortgage interest would be fully deductible.

Mr. BRADLEY. For the purpose of refinancing, the parents of that young fellow could not deduct the interest on the additional mortgage?

Mr. GRAMM. That is correct. But if the Senator will yield further, if a couple went to a bank and borrowed the money to give to their children, that interest would not be deductible either.

Mr. BRADLEY. I understand that. That is not what the Senator's amendment says.

Mr. GRAMM. But it is in the Senator's own bill.

Mr. BRADLEY. The Senator's amendment says, as I understand it in this case, that if parents wanted to refinance their home in order to stake their children to a first home, that interest would not be deductible. I wanted to clarify for the RECORD that is the case with the amendment that the Senator offered.

Mr. GRAMM. Reclaiming my time, let me say, Mr. President, that is exactly the present provisions of the bill that is before us. If a couple went out and borrowed money to give to their children to buy a home, that interest payment would not be deductible. So what we are doing here is simply applying the same principle that exists in the bill with these two modifications concerning medical care and concerning higher education. We are applying to the mortgage loan exactly

the principles that exist in the bill which is currently before us.

Mr. President, I yield the floor.

Mr. DURENBERGER and Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise with some reluctance to oppose the amendment of my distinguished colleagues from Washington and Texas. I have no reluctance to oppose that portion of the amendment that finances their choice of deduction options. My reluctance is in opposing their efforts to remedy a disparity that is created by the Finance Committee bill that we discussed earlier today. We began, the majority of the Finance Committee, a war on State and local taxes with the effort to eliminate the deductibility of sales taxes.

I think a lot of people are under the impression that sales taxes and sales tax revenues are not really very important to States. Well, that is only true if you live in four States that do not levy State sales taxes, one of which happens to be the State of Oregon. On average, sales tax revenues are the largest single source of revenues for the States in this country.

They provide more than $60 billion a year in revenue. There are 13 States that receive more than 40 percent of their deductible tax revenues from sales taxes. Lousiana receives 69 percent; Hawaii, 52 percent; Tennessee, 61 percent; Mississippi, 57 percent; and Oklahoma, 42 percent.

These statistics while they might be compelling to some are only touching the heart of the matter, and the real issue, Mr. President, is our ability to defend the right of States and local governments to collect the revenues they need from the sources they have in order to provide basic services to their citizens.

Mr. President, my concern for the attack on both the sales tax deductibility, and now in this amendment the attack on income tax deductibility, is that the next assault on deductibility is going to be even worse. That leaves only one other form of taxation to take care of, and that is the property tax.

Mr. President, we are doing it at a time when we are asking State and local governments in this country to take on more and more responsibility, and with it the obligation to raise their own revenues from their own sources to resolve these problems.

Mr. President, I would suggest that the deduction for State and local taxes is not just another special interest loophole, and it is not just another part of the base-broadening process that we are going through. It is the creation of the Federal income tax, and the deduction for State and local taxes has been accepted as a necessary feature of our Federal system. It preserves a portion of the tax base for State and local governments to fund the services which we count on them to provide: Education, public health, police, fire protection, clean air and water to name just a few.

Repeal of the sales tax deduction would be the first step in undermining the fiscal foundations of State and local government, and would constitute gross and unwarranted intrusion in the fiscal decisions of State and local citizens and their elected officials. Repeal of the sales tax would arbitrarily create winners and losers, and increase the fiscal disparities that exist among the States.

Mr. President, I wonder if we could not have a little less conversation in the Chamber.

Mr. MOYNIHAN. Mr. President, the Senator is speaking and is not easily heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, the average per capita income of the States hardest hit is 12 percent below the national average. In contrast 13 States that would be least affected by the proposal of the committee have an average per capita income 3 percent above the national average.

For many States, limiting the sales tax deductible will result in a decline in State and local services. States finance nearly half the cost of elementary, secondary, and public higher education at this present time. The proposal to repeal the sales tax would sharply increase pressures to cut public expenditures, particularly in seven States of this country, including Idaho, Iowa, and North Carolina, where more than 50 percent of the sales tax revenues support education.

Mr. President, the proposal is unfair to State and local policymakers who have developed their tax structures in response to their particular needs, their characteristics, and the resources of their citizens. Repealing the sales tax deduction would cut short State and local effort to broaden and to diversify their tax bases at a time when those tax bases are being drawn on to respond more heavily to the needs of their citizens.

Mr. President, having indicated my concern for what the committee has done, and having indicated as I have to my colleagues in the past that I think there is a solution to this problem, which is reverse the action taken by the committee, I have to rise in opposition to the solution suggested to us by our colleagues from Texas and from the State of Washington because in effect they are only compounding the same problem.

In effect, by giving States that do not have income taxes nor sales taxes the option to take the tax that they have as a deduction, they may be alleviating themselves of the burden imposed on them by the Senate Finance Committee version of tax reform, but they are creating substantial inequities or adding to substantial inequities that exist among the States, and across the States of this country.

□ 2000

Mr. President, if this amendment becomes law, every State that has a diversified tax base, that has a combination—the Senator from Idaho indicated his State had—has a combination of sales taxes, income taxes, and property taxes will become a loser.

Now, I will list the losers among the States if this amendment passes: Maine, Rhode Island, Vermont, New Jersey, Pennsylvania, Illinois, Ohio, Iowa, Kansas, Nebraska, Alabama, Arkansas, Georgia, Kentucky, North Dakota, Oklahoma, Colorado, Idaho, Utah, California, Massachusetts, Maryland, New York, Michigan, Wisconsin, Minnesota, North Carolina, Virginia, and Hawaii.

I know why the authors of this amendment have offered this amendment: Because the Finance Committee has discriminated against those States that have elected because of the nature of their tax base to use sales taxes rather than some other form of taxation. But I would beg my colleagues to consider the damage that they are adding to the fiscal system, the intergovernmental fiscal system, in this country. I do so particularly with regard to my colleague from the State of Washington, who, as a former Governor and a former chairman of the National Governors Association and now as a U.S. Senator, has certainly earned himself a national reputation as a forceful advocate for improving our system of intergovernmental relations.

I do not know that he would be on the floor of the Senate tonight proposing this amendment if, in fact, the Senate Finance Committee had not invaded the province of intergovernmental fiscal relations with their deductions. Perhaps he would. I will leave him at the appropriate time to respond for himself.

But let me, Mr. President, conclude this portion of my remarks with an observation also about the federalism implication of the choices made by the proponents of this amendment.

This amendment would not prevent the Federal Government from interfering in State and local revenue raising decisions. On the contrary, it would expand this interference, not only into sales taxes but also into income taxes. It would constitute an unprecedented and, I would imagine, an irreversible assault on a principle that has been a part of our Federal Income Tax Code since its creation.

that the Federal Government should not tax income paid as a tax to another level of government.

Not even the Senate Finance Committee went that far to undo a principle that has been part of the Federal Income Tax Code since its beginning.

Mr. President, I would suggest that is not fairness in the Federal system.

(Mr. GRASSLEY assumed the chair.)

Mr. DURENBERGER. The message here, if this amendment is adopted, is that it is Federal policy, it is national policy, that the income tax is to be discouraged. Statewide taxes, like income taxes, are to be discouraged. It is Federal policy, under this amendment, that statewide taxes, like sales taxes, are to be discouraged, and it is Federal policy and national policy under this amendment that we tax property.

We are encouraged under this amendment to go after home ownership. There are two sides of this amendment that do that. One says send the responsibility for raising taxes to the local government level with the property tax and the home ownership. Go after it, because that is the deductible one and the other two are not deductible. The one signal that attacks home ownership in this amendment is go to the local government with the responsibility, go to the homes of the people of this country for the taxes.

The other is in the method of financing this apparently attractive item. That is a notion that has already been discussed on the floor today, that people who own homes and have equity in their homes somehow or other can use that equity only to expand their home, or perhaps, according to their amendment, for medical expenses or educational expenses.

But, Mr. President, I would suggest to you, as I am sure others have and others will, that the proponents of this amendment have created a trap for all of us. They have created a trap for people who own only a home. If that is all you have, as the Senator from New Jersey has suggested, if all you have is a home, if that is all you own, and you have an equity in that home and you do not want to spend it on the home itself, you would like to spend it on one of your children, the only thing you can spend on your children out of that home is education and get a deduction for it.

But if you want to put them into business or if you want to buy them a new home or give them a leg up or something like that, you cannot use your home do do it. You cannot get at that equity unless you get yourself sick or you go to college.

Mr. GRAMM. Will the Senator yield?

Mr. DURENBERGER. I will be glad to yield to the floor in a moment.

So the trap that is created is that if you also own stock, you can sell stock and use that stock to help your kid buy a home, the down payment on a house. Yes, the kid can go and finance it himself but he needs a down payment. There are no free homes any more. There are no more nothing down; you have to have cash payment. If you are setting out there with an average $65,000 home, and your kids want to borrow against that home, you cannot do it. But somebody who has a $500,000 home down the street, he cannot borrow against that either to put his kids into business or help them buy a home, but he has stock. He can sell his stock. Or maybe he owns a boat. He can sell the boat.

The trap that is created here is for the difference between ordinary Americans and all the other Americans.

The ordinary Americans are trapped into using this equity they have developed over the last 20 or 30 years in their home only to expand the home, for no other purpose.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. DURENBERGER. No other purpose except the medical and educational deduction.

Mr. GRAMM. If the Senator will yield——

Mr. DURENBERGER. If I am not accurately portraying the Senator's position on the amendment, I will be glad to yield for a question.

Mr. GRAMM. A person can borrow against their home just as they can borrow against their stock or against their boat. There is no limitation on the use of your home in any way for any legal purpose. The question is, should the interest on that borrowing be tax deductible. If you borrow against your stock to give to your children to build or buy a home, that interest is not deductible. Nor would the interest be deductible when you borrow against your home. So there is no limit on the ability to use your home. The home is not being relegated as an asset below any other asset. In fact, it is relegated above it because to buy a home, to improve a home, or for two other purposes that interest is deductible, whereas interest against stocks or a business for purposes that are not tax deductible are totally nontax deductible.

Mr. BRADLEY. Will the Senator yield?

Mr. DURENBERGER. I yield to the Senator from New Jersey.

Mr. BRADLEY. I would like to address the remarks of the Senator from Texas. I will do that when the Senator completes his remarks.

Mr. EVANS. Will the Senator yield for a question?

Mr. DURENBERGER. I yield for a question.

Mr. EVANS. The Senator listed a long list of States purportedly being losers under this amendment. This amendment creates no losers compared with the tax bill as it came out of the Finance Committee and as it sits on our desk. I do not think the Senator intended to give the impression that somehow we were taking from anybody because currently taxpayers can deduct all of their property taxes, they can deduct all of their State and local income taxes, and citizens in that long list of States the Senator read will have not one of those privileges reduced. Is that correct?

Mr. DURENBERGER. By comparison with current law, this amendment——

Mr. EVANS. I am talking about the bill that came out of the committee. We all are losers compared with current law. I am talking about the bill as it came out of committee. We should not give the impression that somehow this amendment creates any losers. It creates no losers. It takes from hostage some people in States that simply do not have an income tax. Otherwise, we would remain hostage to whatever happened or may not happen in the conference committee. I hope we do restore full deductibility. That would be my goal as well as, I am sure, the goal of the Senator from Minnesota and others on this floor. But we are not sure what some conference committee can, will, or choose to do.

□ 2010

We simply have to attempt to give some relief to those States which are today being held hostage. I am sure the Senator from Minnesota would agree that compared with the bill as it came out of committee, this amendment creates no losers in any State, but it does add some relief to most citizens in a dozen States and probably some citizens in every State that has a sales tax.

Mr. DURENBERGER. If I understand correctly the comparison, Mr. President, one of the things I lack is costing out the cost of the loss of the mortgage interest deduction and what States those may fall in. It is accurate, as the Senator from Washington has stated, to say that all States—with the exception, I think, of the four that I read off—would lose under the committee version of the bill. It is also accurate to say that by comparison with current law, all of the States I read off, which I believe are 35 States in this country, are losers compared to current law.

Mr. EVANS. I would count all 50 States losers compared to current law.

Mr. DURENBERGER. I am just suggesting to my colleague that we have not improved at all by his amendment the status of 35 States in this country; in fact, we have improved the status of certain States, I think probably 15 in number, of those who would be disadvantaged in particular by the elimination of the sales tax.

Mr. BRADLEY. Will the Senator yield on that?

Mr. EVANS. If the Senator would yield——

Mr. DURENBERGER. I have answered the question. I do not intend to yield further on that.

I yield to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, on the point of those States hurt by this amendment, the effect of this amendment as it is drafted makes the sales tax deduction optional and the income tax deduction optional. In other words, you can take one or the other, as I understand the authors of this amendment, who crafted it. The effect of that in this tax bill is to make the State income tax deductibility a conference item.

Under the bill as it is now, State income taxes are fully deductible. Under the House bill, State income taxes are fully deductible. Under this amendment, we are providing an option so that we are opening the door.

There are 42 States in this country that have State income taxes. There are seven States in the country that have only State sales taxes. So what we are doing by this amendment is putting in jeopardy the deductibility of State income taxes of 42 States so that the seven States that have only sales taxes will be able to have the option to deduct them.

One final point: 90 percent of all the State income taxes are deducted. Only 25 percent of the State sales taxes are deducted. I do not think the Senate wants to make State income tax deductibility a conference item.

Mr. DURENBERGER. I thank the Senator.

Mr. MOYNIHAN. Mr. President, would the Senator yield for a comment in that regard?

Mr. DURENBERGER. I yield to the Senator from New York.

Mr. MOYNIHAN. I would like to reinforce what the Senator from New Jersey has said. He described this amendment as an attack on the deductibility of State income taxes. He said that this deduction has been a natural outgrowth of the principle of federalism and a provision of the Internal Revenue Code from its beginning. He was entirely correct in that respect and perhaps he would allow me to say that that beginning goes farther back than 1913 when, in the aftermath of the 16th amendment, we adopted as a permanent feature of our revenue system a graduated income tax.

Mr. President, the first income tax levied in the United States was in 1862—by this body and the House—a 1-year tax to provide for the expenses of the Federal Government during the Civil War, or the War Between the States, as you choose. That measure was brought to the floor of the House by Justin Smith Morrill, a Whig, now Republican, of Vermont, author of the Morrill Land Grant College Act. He rose on the House floor and the first thing he said was that no Federal income tax would be levied on any income paid as tax to a State government or subdivision thereof.

He said that such an arrangement would violate the first principle of federalism, that one branch of the Government should not invade the fiscal resources of another.

That was so clearly understood in the beginning, in 1862 and in 1913.

I ask the Senator from Minnesota, would it not be the case, were we to adopt this amendment, that we would not only be jeopardizing in conference the deductibility of the State income tax, but for the first time in the history of federalism, the Senate would go on record as approving an invasion of the fiscal resources of the States. Would we not be making a fundamental shift in that principle of federalism that has been with us from the outset of Federal taxation?

Mr. DURENBERGER. I say to my colleague from New York that he is obviously correct that the adoption of the amendment, if it were enacted into law, totally changes the Federal relationship as it has existed with regard to the taxation of income by the various levels of government in our constitutional system. Whether it is the first time that suggestion has come up and potentially been passed on the floor of the Senate, of that I am not sure.

Mr. MOYNIHAN. I believe I can speak that it may have been suggested but it has never been adopted.

Mr. DURENBERGER. Mr. President, I shall conclude very quickly my comments, because I know there are others who desire to speak. Let me conclude by saying that for most Americans, the family home is the most important investment they make in their lifetime. Two out of three Americans own their own homes and many of the remaining one-third are saving today to make a downpayment on a home of their own. This amendment would deny the American homeowner the chance to take the equity in his home. This amendment puts out of reach of the homeowner the increased equity that builds up on his home.

Much of the increase in housing prices in the last 20 years has resulted from inflation. Inflation has raised the cost of everything else in our society. This amendment would deny the American homeowner the opportunity to borrow against the increase in the value of his home and deduct the interest on that borrowing except to renovate his home, pay medical expenses, or send his children to college. That means, Mr. President, if a family member loses his job, he cannot take out a home equity loan and deduct the interest to get over the hurdle of unemployment.

But a family with a higher income can take out a home equity loan to finance their kid's education at some fancy private school. Middle-class parents and grandparents cannot borrow against their home equity and deduct the interest to help their children buy a home in today's inflated housing market, but a family in Beverly Hills can deduct the interest for adding a wing to their $2 million home.

I suggest to my colleagues if they are looking for a solution to the problem of deductibility of State taxes, they will find it in the conference committee and find it here on the floor of the Senate in a resolution that has been circulated to every Member of the body by the Chair and the ranking member of the Budget Committee and a variety of my colleagues. It is authored by our friend from New Mexico [Mr. DOMENICI], our colleague from Florida, [Mr. CHILES], our colleague from New York [Mr. MOYNIHAN], myself and a variety of others of our colleagues. We are prepared to bring that resolution to the floor at an appropriate time. I think it is a solution to the problems we have been debating. I strongly recommend we reject the solution put forth by our colleagues from Texas and Washington.

Mr. President, I relinquish the floor.

□ 2020

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to associate myself with the remarks of my colleague from Minnesota and also my distinguished colleague from New York, the senior Senator. This amendment has been suggested by some of its proponents as a loophole closer. This is not a loophole closer. This is a home ownership crusher. This is an invader of the principles of federalism. This is the manner by which a relative handful of States, few in number, their citizens are afforded an advantage at the expense of all home ownership throughout the country, even though those States——

Mr. ABDNOR. Will the Senator yield on that?

Mr. D'AMATO. Yes, I will yield for a question.

Mr. ABDNOR. I will come directly to South Dakota. I have been hearing about this fairness subject all evening here and I could not believe the remarks I think I just heard the Senator make. Does the Senator think it is fair for a State that conducts government, State and local government, entirely on sales tax, and does not use an income tax—to be penalized for that choice? We are concerned about one thing, about a home loan, a second

mortgage, that a man or lady may lose the interest deduction on. Is it fair when seven States that finance government on the State level with a sales tax cannot take a deduction for that?

Mr. D'AMATO. Let me say to my colleague, he raises a very valid point. I will join with my colleague in working for the restoration of State and local sales tax as a deduction.

I concur with the Senator in that I believe it is unfair to place that burden upon those seven or eight States, including the citizens of my State, New York, which loses also as a result of the inability to deduct local sales tax. But I think that this is a poor method of addressing an inequity that exists in the bill before us. I believe that this is not the proper way and I will support my colleagues who have indicated that they are going to push forward for a resolution seeking the restoration of sales tax because I believe to begin to say taxes may or may not be deducted is an infringement upon those important principles of federalism, but I believe an attempt to correct a problem that affects these eight States—and there are some others and to a greater magnitude—this is not the manner nor the solution that we should seek. I can tell you as a Senator whose home community of Long Island is made up of 90-plus percent of one-family home ownership, with that concept, we do great violence to all of my constituents, to all of those homeowners when we begin to say now the only reason you can get a new mortgage or refinance is for the stated purposes in this bill.

If you want to get revenue, if you want to get tax simplification let me suggest to you this is the worst way to go about it. Do you really believe that people are not going to say that yes, it was for educational and other purposes and then they will have to submit to the IRS proof that they took this refinancing for the stated and allowed purposes in order to claim their interest deductions? Is that what we are seeking to do? I thought we want tax simplicity. The fact is that home ownership in this country provides people, and has historically, with the manner by which to get their great accumulation of savings and now here is big brother saying, "If you refinance the interest, the deduction somehow now has become a loophole, it is bad, it is a terrible thing to get the interest on it." Well, it never was before and simply because someone takes to the floor of this Chamber and says it is a loophole and they seek to close it, does not make it a loophole now. I think it is something that we should fight to retain because that goes to the core of middle income, middle America.

So, Mr. President, I hope that we would defeat this amendment and, yes, work to restore the deductibility of sales taxes. I yield the floor.

Mr. ABDNOR, Mr. FORD, and Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair heard the request of the Senator from Kentucky first.

Mr. FORD. I thank the Chair. I will take a few minutes and then let my colleagues go. This may be a good amendment. It may be good as it relates to sales tax or income tax but I have heard two things tonight: Fairness. Fairness. Well, what is fairness? I heard those words a couple years ago and that did not fare too will.

Then I hear the President, and I admire his strong stand for family. What is the basis of a strong family? It is their home. The people who are trying to bring this amendment to the Senate floor tonight may have a real fairness question, but you have gone at it wrong. You can argue about what it does not allow under the bill or you get another $10,000 and you can do whatever you want. That is fine. But you are knocking down the root of the family by saying they cannot use their No. 1 asset to help their family, to give them a better education, or you can go wherever you want to go. Yes, you can give them an education or you can enlarge the house. That is about as far as you can go. That is about as far as you can go. So you have made the No. 1 mistake.

This administration talks about family. I was at the White House the other day when Mrs. Reagan gave the awards to the six families throughout the United States. They came from a home. The home was their largest asset. My State collects 27.2, I believe it is, of its annual budget from sales tax, about 25 percent from income tax. So we charge off less of our tax under the present bill than we would if we had all of the sales tax.

So what I am saying to you, I am taking income tax because 90 percent of that is deducted. About 25 percent of the sales tax is deducted. You make both ways. Now, if you want to change the procedures and you want to make it fair, let us do something other than to try to damage the home and to say to a parent that he cannot help his family by enlarging the loan, refinancing, doing those things that a parent would like to do for his children and it is probably the only major asset he has.

And so, Mr. President, I thank you for giving me these few moments and look forward to the resolution that is coming so we can turn over our ability to make decisions to the conference committee.

Mr. CHAFEE, Mr. ABDNOR, and Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABDNOR. Mr. President, I thank you. Again, all evening I have been hearing the word fairness. I just heard the Senator, my colleague, from Kentucky tell us what we are doing to the most precious thing a family can have, the home. I hear my colleague from New York telling me that we should make it fair by including deductibility of both sales and income tax. And that's a great idea, but as I understand it we are trying to find a revenue neutral bill here and to do that very thing would take $17 billion. That's a lot of money. We can't even find a way to figure out $3½, $4 billion, let along talk at this late hour about a $17 billion revenue raiser somewhere in this tax bill.

If I could say to my colleague from Kentucky, a home is a wonderful thing and I cannot think of a quicker way to deprive the people from South Dakota of a home than to pass this kind of legislation. Do you know how many dollars this amounts to that they cannot deduct, that they might have been able to use on a payment for a house if they were treated fairly with everyone else?

□ 2030

Mr. FORD. Mr. President, will the Senator yield, since he used my name?

Mr. ABDNOR. I yield.

Mr. FORD. Twice you said "the Senator from Kentucky." I hope that is me.

Twenty-seven point two percent of the total general budget in Kentucky is sales tax, and we cannot charge that off.

Mr. ABDNOR. But you are taking income tax.

Mr. FORD. That is right. And you are doing the same thing to your present homeowners that you are asking us to do in Kentucky to take care of seven States.

Mr. ABDNOR. I will tell you what you are telling the people. You are telling the people of South Dakota, "You haven't got any business deciding how you try to raise revenues to run government. There is only one way to do it—through income tax." My people do not want the income tax.

Wait a minute; I have the floor.

Mr. FORD. Will the Senator yield for a question?

Mr. ABDNOR. The people of South Dakota have already considered this many times in the State legislature.

Mr. FORD. Will the Senator yield for a question?

Mr. ABDNOR. Let me tell you something else. We are not a very rich State. We do not have many people, and we have to raise revenues.

We happen to be an agricultural State. Kentucky, I'm sure, produces more agricultural products, but not on a per capita basis. There is no State that relies as much on agriculture as South Dakota. You try to figure out

who pays income taxes some years when we have drought and get hailed and prices are low, and then try to run government on an income tax. It's not practical.

Mr. FORD. Mr. President, will the Senator yield?

Mr. ABDNOR. I yield.

Mr. FORD. The thing I said a moment ago is that fairness in this bill has excluded the deduction of sales tax. I agree, but you have gone after it the wrong way. You have gone after the home. You have gone after my castle, the only thing I have.

Ninety percent of the people in the State of Kentucky have incomes under $30,000. I understand the problem, but you just have gone to the wrong place to get the money to offset the $17 billion that seven States will cost us.

Mr. CHAFEE addressed the Chair.

Mr. ABDNOR. I still have the floor.

The PRESIDING OFFICER. The Senator from South Dakota may proceed.

Mr. ABDNOR. I will not be too much longer.

Again, I go back: The difficulty we have is that from the very outset—and I do not mean to pick on the Finance Committee, but they reported this bill out of committee unanimously. That doesn't give us a lot of room to maneuver. Obviously, the members of the committee felt that any State which is foolish enough to use a sales tax, of all things, as a means to raise money to run government, does not deserve to have a tax deduction. You're telling that State to go back, call a special session, write off the sales tax and add an income tax. What a crime.

Let's keep the playing field level for all. We have to live in South Dakota, too, and we happen to have chosen to take sales tax as a means to raise our revenue, to run State and local governments. It has worked, and it is consistent. It is steady. It is not up and down, as it would be if we tried an income tax.

People are not complaining. They want it that way. We are telling the people in South Dakota and six other States which have no other way at the moment of raising revenues for their State and local governments to change their laws. We do not have a lot of coal or other minerals to tax, or anything else for that matter. We have no other source, but we are supposed to be knocked off the field, knocked off the picture, because we are foolish enough to use only sales tax.

The fact that South Dakota taxpayers lose a $500 a year tax deduction because they are using sales tax and not income tax does not count here. The only States we are concerned about are those smart enough to put in an income tax—and the more they raise it and the more they spend, the better they are.

Look at the fallacy of this. Look at what an income tax has got us today. Look at what we are trying to do with income taxes. We are trying to bring the rate down because it gets out of hand. At least with a sales tax, you have a little control of it.

I hope that in the spirit of fairness, before this bill becomes law, someone thinks of other States that do not depend solely on income tax, other States that are really having a difficult time financing government the way it is.

I hate to think that I have to depend on a conference committee to come up with the answer, without our at least attempting to insert a provision that makes everyone participate fairly in the bill we pass in the Senate.

Mr. CHAFEE. Mr. President, I oppose the amendment.

The Senators from the States that do not have an income tax but have a high sales tax clearly have a problem, as has ably been put forth by the Senator from Washington and the Senator from South Dakota. At the same time, in the proposed solution of their problem, they raise additional problems for the rest of us. In other words, it is the system for paying for their solution that I find objectionable.

Why am I opposed to their approach? For two reasons. First, because it puts the Federal Government back into the position, through the Tax Code, of choosing what is good—that is, deductible—and what is bad—that is, nondeductible. That is the first reason.

The second reason, for specific factors that apply to the State I represent, is that what they are doing is once again, through Congress, via the Tax Code, making the selection of what is a good deduction and what is a bad deduction, and the interest being nondeductible.

One of the reasons why we have this tax reform proposal before us tonight and one of the reasons why it has received such high acclaim not only in the Finance Committee but also, I believe, on the floor of the Senate and throughout the Nation, one of the reasons why it has come so far, is that the people no longer wish the Congress of the United States, through the Tax Code, to be choosing what is good and what is bad. One of the major thrusts for tax reform is to get it out of that business.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. CHAFEE. I would like to finish, and I will yield for any questions, but I would like to make my presentation.

What we did in the reform that has emerged from the Finance Committee is to get rid of the tax shelters and lower the rates and let the American people spend their money in the fashion they think best, without the Federal Government, through the Code, making the choice that this is an allowable deduction but that is not an allowable deduction; this is a credit we allow, but we do not allow a credit for that.

Thus, we ended, for example, the 100-percent deductibility for meals. We ended tax credits for home energy solar fixtures. We ended the limited partnerships in real estate. We ended the R&D tax shelters.

What we are saying to the people of America is: You make your choices. We are not going to make those choices for you by giving special breaks through the Code. What the provision proposed by the Senator from Texas and the two Senators from Washington and the Senator from South Dakota is that on certain deductions that are based upon home mortgage loans, you can obtain the deduction for the interest.

For example, they outlined the following three: improvements on your home, education for your children or yourself, and medical expenses. These are all right, they say. But if you borrow on your home to raise money for other purposes, and some of them have already been delineated on the floor here—to put your child into business, to make a loan to your child so he can buy a home—they say the interest on that mortgage is not deductible. I do not think anybody will argue that that is what they are proposing. They have outlined that.

□ 2040

Those are the things we are trying to get behind us. We do not want the Federal Government to be saying once again this is good and, therefore, it is deductible, and that is bad and, therefore, it is no longer deductible. So that is my first objection.

I feel that if an individual taxpayer has a home in which he has built equity and he wishes to take a mortgage out on that home and spend it for whatevery purposes he chooses—it might be a trip around the world that he and his wife sought for many years—he ought to be able to get the deduction for the interest payment on that mortgage as much as for the three purposes that they have set forth that they would permit the interest to be deductible on. I just do not want the Federal Government to be making these choices for us.

The second reason is a more pertinent one dealing with the State that I represent. The State that I represent builds more sailboat hulls than any other State in the Nation. We have become, clearly as defined here, a major builder of sailing vessels, boats of all sizes and indeed power boats as well, but principally we have concentrated on sailing vessels and sailboats. That is why for the American contenders for the Americas Cup that is

going to be competed for in Australia, the great majority of Americas Cup contestants, and there are several of them, have been built in Rhode Island.

It seems to me totally unfair for a person who wishes at the culmination of his career—he is retired, he and his wife wish to make a major investment in a sailboat—that they are not permitted to have the deductibility on the interest on that should they choose to increase the mortgage on their home or obtain a mortgage on their home for that purpose. Why should we restrict them in that fashion? Why should we say you can do something but you cannot do something else and particularly as its regards sailboats?

So, Mr. President, this particular provision that they have raised would be extremely damaging to the State I represent for those who borrow, those who buy sailboats, and some of them are expensive. It has been told to me very clearly by the sailboard builders that they just do not reach down in their pockets and pull out $200,000 or $300,000. They obtain the money by borrowing.

Right now I presume they go to a bank and put up collateral or stocks or bonds, or whatever it might be, to borrow. That is not permitted under the Finance Committee bill.

But should they choose to mortgage their home, they should be entitled to do so and have the deductibility for the interest that they pay.

Others say, "Oh, no, we only want this for education of children." You can well have the situation where the parents' children have grown up, their educations are completed, and there is not a demand for that particular reason.

But under the proposal here that money would be locked up. Oh, yes, I could use it, and they make that very clear. You can use that money but you cannot get a deduction for it.

I do not think that is fair. I do not think they should be telling us what you can get a deduction for and what you cannot get a deduction for.

So for those reasons, Mr. President, first, that the thrust of the tax reform bill has been to get the Federal Government out of determining what we can do and what we cannot do, deregulation, if you would, and because it particularly affects the State that I represent, I will vote against the proposal.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. CHAFEE. Yes, I am delighted to yield.

Mr. GRAMM. Is it not true that the Finance Committee, not this amendment, denied the deductibility of interest on loans for sailboats?

Mr. CHAFEE. They denied the deductibility for consumer interest of all types, except you have the possibility of mortgaging your home and having the deductibility for the interest in that if you so choose.

Let me point out they denied the deductibility, for example, of going down to borrow for the education of your children. That is true. They denied the deductibility for going down to borrow for medical expenses, except to the extent that medical expenses are a deduction unto themselves. They denied the deductibility of going to the bank and putting up your stocks as collateral and borrowing for a home. That is true, all of those.

But still you had the right to resort to the equity in your home for a mortgage and deductibility of that interest for whatever purpose you chose.

Mr. GRAMM. If the Senator will yield further, it is not this amendment that says that some deductions are good and some are bad. In fact, the Senator is a member of the Finance Committee that voted 20 to 0 to do exactly that.

All this amendment seeks to do is to simply apply the logic across the board, and I know that this is not an easy thing to do, but I hear my colleagues talk about restoring the sales tax. That is $17 billion. Where are you going to get the $17 billion from? We have tried to come up with a reasonable way to get $3.3 billion not by choosing good versus bad deductions—the Finance Committee has already done that—simply by trying to apply the logic of the bill to the ability to use a mortgage or to use a home as an asset against which to borrow.

So we did not choose a good deduction versus a bad deduction. We did not choose to let boat interest not be deductible. That is what the Finance Committee did.

All we are trying to do is to close a loophole where every loan that is going to be is a home loan, an absurd result, and to use the money to try to bring fairness in terms of a sales tax. That is the only point I wanted to make.

I thank the distinguished Senator for yielding.

Mr. CHAFEE. No one is arguing with the difficulty that the Senators face and they have a problem, and I recognize that.

But the solution to their problem is an appropriate one, in my judgment. The Finance Committee did not restrict what you could do with the mortgage that you obtained upon your home. You can use that for whatever you wish. You can call that a loophole. I do not think so.

It was very clear to all of us that for what you might call big ticket items—I hardly believe someone is going to put a mortgage on their home for a refrigerator or going to put a mortgage on your home to pay your credit card with. You are not going to put a mortgage on your home probably to buy an automobile.

But in major items that you so choose you can go and put a mortgage on your home and the interest on that mortgage will be deductible. That is the bill that came out of the Finance Committee. That is the bill that the proposers of this amendment wish to amend, wish to change in a rather radical fashion, I believe.

Mr. GORTON. Mr. President, my remarks are directed to either of those of the junior Senator from New York or my distinguished friend from Kentucky who argued eloquently for the preservation of interest deductions for a number of purposes.

I must say, however, that the four members of the Finance Committee who have spoken on this issue have made a breathtaking argument. It is the immediate and direct parallel to the position taken by the mythical young man who murders both of his parents and then asks for mercy on the grounds that he is an orphan.

It is the Finance Committee, not the sponsors of this amendment, who have made a judgment never previously made in the Income Tax Code of the United States, that most interest payments should not be deductible. It is the Finance Committee, not the sponsors of this amendment, I say to my friend from Kentucky, who is not a member of the Finance Committee, who have decided that you cannot borrow money at the bank and deduct the interest in order to make a downpayment on your children's home, in order to pay your own medical expenses, in order to buy a sailboat, in order to do any other thing which presently results in a deductible interest expense.

And having made that judgment, the Senators from New Jersey, Minnesota, and Oklahoma and the senior Senator from New York, having made the judgment that it is not good public policy to allow an interest deduction for any purpose other than the purchase of a home, they now are outraged when Members who seek equality for their State taxpayers adopt their own principle in order to pay for this solution. That is a breathtakingly unpersuasive as well as a breathtakingly unfair argument.

We did not make the choice that interest payments should no longer be deductible except for a single purpose. If may very well be a good value judgment. If, in fact, it is a good value judgment, it should not be subject to a loophole that is as wide as a two-lane highway. It should not be subject to a loophole which has already resulted, as my friend from Texas has said, in advertisements in the newspapers; "Come put a second mortgage on your home so that you can buy an automobile."

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My friend from the State of Rhode Island has said that the Finance Committee decided that the Government of the United States should get out of the business of making this kind of decision as to what is deductible and what is not deductible on individual income tax returns.

□ 2050

Yet it is they who have said that sales taxes will no longer be deductible while certain others are.

The senior Senator from New York went all the way back to the year 1962 and accused us of changing a policy which had existed forever with respect to the deductibility on Federal income tax forms of State taxes. It is not we who have breached that fundamental tax policy. It is the Finance Committee which has breached it.

We are talking about two policies in this bill which are unprecedented in the United States. First, the distinguishing between valid purposes for which interest payments will be deductible and less valid purposes for which they will not be deductible. Second, that there is some magic that certain general purpose State taxes can be deductible and other general State taxes cannot be deductible.

But to come before us and to argue that we are somehow undercutting homeownership because we simply seek to apply the philosophy which they have already applied in an unprecedented fashion in order to cure a totally unjustifiable policy decison on their part with respect to State taxes is simply not to deal either fairly or honestly with their colleagues in the Senate.

Mr. CRANSTON. Mr. President, I share with my colleagues the goal of maintaining full deductions for payment of all State and local taxes, including sale taxes. The amendment offered by my good friend from Washington [Mr. EVANS] will not help taxpayers in California and it will not help taxpayers in many other States as well, as this debate has made very evident. My State of California relies on sales, property, and income taxes to pay for State and local government.

Offering California taxpayers a choice between deducting either their sales taxes or their income taxes, as the amendment proposes, will not be much help.

I believe the tax reform bill, as a matter of principle, should treat the taxes of all States equally by permitting full deductibility of State and local income, property and sales taxes.

It is unfair for the Federal Government to tax the revenue sources of the States by denying a deduction for payment of State taxes. That is a tax on top of a tax.

It is ironic that the bill permits the deduction of taxes paid to terrorist Libya, but will deny a deduction for taxes paid by Californians to California.

Why is Libya's, or South Africa's, taxing power given better recognition in the tax reform bill than the tax laws and policies of American States?

I will support change in the tax reform bill to restore full deductibility of all State and local taxes. Done in a fair and appropriate way.

I hope we will have that opportunity.

Mr. BUMPERS. Mr. President, I also am troubled by the inequity which is created when homeowners can use their home equity to gain a tax deduction for consumer borrowing, but renters cannot. But for the Government to try to discern the purpose of a home equity loan is going to lead to a nightmare. The IRS meddles too much in the affairs of our citizens already and I do not want it to decide whether a home equity loan is for paying for a child's tuition and books rather than for the child's room and board. The conference committee needs to review this issue. Perhaps upon analysis it will find that few renters itemize their deductions in the first place so they are not losing any deduction for consumer borrowing. If however, there are many renters who do itemize their deductions, then they are put at a disadvantage in the credit markets as compared to homeowners. In any event we will be encouraging homeowners to take second and third mortgages on their homes, which I question as public policy. I predict we'll soon see checking accounts and credit card accounts based on home mortgages. The purpose of this bill is to discourage tax-motivated behavior but with the elimination of the consumer interest deduction we may well see one of the most bizzare tax-motivated borrowing system ever imagined.

Mr. PRESSLER. Mr. President, I am pleased to join as a cosponsor of this amendment which would restore a deduction for State and local sales taxes. The primary goal of tax reform is to make the Tax Code fairer. This amendment would help to achieve this most important goal.

Since the President first embraced eliminating the deduction for all types of State and local taxes over a year ago, it has become popular to portray the issue as a battle between wealthy and less affluent taxpayers. It has also been agrued that States with higher State and local tax rates are being subsidized by States with lower tax rates. I, myself, found these arguments appealing at first glance. However, upon closer scrutiny I discovered that these views do not tell the whole story.

It may seem odd that I would be very concerned about this issue. After all, the Treasury Department estimates that tax savings from the present deduction range from a high of $233 per capita in New York to a low of $20 per capita in my home State of South Dakota. However, reasoning such as this has created the assumption that this is a battle between high tax and low tax States. As I will show, there is much more to the picture.

Two taxpayers living in different States who now pay an equal amount in overall State and local taxes would pay different amounts of Federal taxes if this bill were to become law. The Coalition Against Double Taxation recently released a study which shows that taxpayers would lose an average of 31 percent of their tax savings. However, because South Dakota has no personal property or State income tax, my constituency stands to lose 46 percent of its tax, my constituency stands to lose 46 percent of its tax savings on average. Thus, South Dakotans, who benefit least from the current deduction for State and local taxes, would be sixth hardest hit in the Nation under this plan.

We must also consider the impact of the proposal beyond what it would mean to the individual taxpayer. If the expense of State and local sales taxes is not deductible, public pressure will likely mount to hold down taxes and spending at these levels of government. This would come at a time when the Federal budget deficit and legislation such as Gramm-Rudman-Hollings have cut Federal aid for programs of special benefit to people of modest means—especially public education.

Approximately 29 percent of South Dakota sales tax revenue is used to fund public education. The percentage of higher education appropriations funded from State sales tax is 53.5 percent. Eliminating the deduction for sales tax expenses would hinder the revenue raising abilities of State and local governments. It is clear that this would negatively impact these governments' education budgets.

This would be especially tragic at a time when there is renewed interest in the need to strengthen our school systems. We are just beginning to see the extremely positive results of our increased commitment to education. We cannot afford to stop now. In South Dakota, it is estimated that between 1985 and 1990, the number of school-age children will increase 17.4 percent. This compares to an average national increase of only 5 percent. In addition, 19.4 percent of school aged children in my State are living in poverty. Nationally, the figure is 15.3 percent.

Finally, will eliminating only the deduction for sales taxes while retaining all others help to increase Federal revenues? There is evidence which leads me to believe the answer to this question is no. Former Chairman of the Council of Economic Advisors, Martin Feldstein, recently completed a study which suggests that the selective loss

of these deductions might result in reduced Federal revenue because tax burdens could be shifted to deductible business taxes.

I think it is very reasonable to expect that States would shift their tax systems to those business and nonbusiness taxes which reamin deductible. The result would be local disruptions, but no net gain and a possible net loss at the Federal level. In addition, if States move to shift more of the burden to the property tax, this would create a special problem for taxpayers such as our senior citizens on fixed incomes who already struggle to pay taxes and keep their homes.

In conclusion, eliminating the deduction for State and local sales taxes fails to meet the original objectives of our efforts to reform this Nation's tax laws. It would not make the code fairer. If there is a shift to rely more heavily on business taxes, these businesses will have less money for capital formation. It threatens even to violate the mandate of revenue neutrality as there is evidence to suggest that ultimately it could result in a loss of Federal revenue. I encourage my colleagues to support this amendment.

(Mr. GORTON assumed the chair.)

Mr. DURENBERGER. Mr. President, unless there are other Senators on the floor, I intend to make a motion to table at the appropriate time, but I do not want to cut off debate in any fashion.

Mr. EVANS. I ask the Senator not to do so.

Mr. DURENBERGER. I yield to the Senator from Illinois.

Mr. DIXON. Mr. President, I rise very briefly to reluctantly oppose this amendment. Mr. President, earlier today, I offered an amendment that would have permitted full deductibility of the sales tax. I agree with the statements made by my distinguished friend from California. I would support full deductibility of the sales tax. I think it is an onerous result that has emerged from the committee, where the committee has suggested that real estate, income tax, and personal property taxes are fully deductible but the sales tax is not.

Regrettably, I do not think this amendment will help the problem much for States like Illinois. We depend almost equally on the income tax and the sales tax as revenue producers in our State. I think, first of all, it would be a very agonizing experience for many in our State to try to make the selection that is required by this amendment between the income tax and the sales tax from a deductibility standpoint.

But I think, more importantly than that, it probably would reduce the chances of obtaining full deductibility of the sales tax in the conference. I think there is a very good chance that later this evening we will adopt a resolution overwhelmingly here in the U.S. Senate that will urge the conference to support full deductibility of the sales tax. I support that for my State and I believe that that will be the better result at this time. I do not see this particular result as one that would benefit the people of my State.

Mr. EVANS. Mr. President, we have been treated to some fascinating, although not entirely accurate, statements made during the course of the evening.

It is obvious that the so-called sanctity of the home is likely to carry the day, in terms of the source of revenue we have chosen, to attempt at least to remove ourselves from the hostage position in which those States who depend wholly or almost wholly on the sales tax find themselves.

I would predict here that unless the conference committee, or someone between now and the time this tax bill passes, makes some change in this question of what you can take from a refinanced home in terms of deductibility that we will have created a loophole so broad and so wide that we will find within the year that we will be back here trying to find a way to put not just a finger but a whole body in the dike.

But I think it is pretty apparent from listening to the arguments, and particularly those of the distinguished members of the Finance Committee, that this is not likely to sell any more than it sold inside the Finance Committee as a source of revenue.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. EVANS. I am pleased to yield.

Mr. JOHNSTON. Do I understand that you can refinance a home and put a mortgage on without limit under the Finance Committee bill that has no relationship to the value of the home and have that fully deductible; is that correct?

Mr. EVANS. The Senator is correct. You can use that money for any purpose you choose.

Mr. JOHNSTON. I mean, to take the absurd argument, you could have a $10,000 home and a $10 million mortgage on that and be able to deduct that, is that right?

Mr. EVANS. Well, I am not sure any bank will give you that kind of mortgage.

Mr. JOHNSTON. Well, if you had an income statement to support it, they would.

(Mr. BOSCHWITZ assumed the chair.)

Mr. EVANS. I presume, if that is the case, I do not see anything in this act that would prevent that.

I say to the Senator that this is a huge loophole. But, nonetheless, it has all the validity of the poor homeowner struggling to pass a little money on to the children. It is an easy kind of an argument to make. And it probably is a source of revenue as a result that we are not likely to pass.

That does not solve the problem. That does not remove us from a position of being hostage.

When I heard my friend from Minnesota read that long list of States who would be somehow harmed by this amendment, it is really hard to believe that he could do such a thing, knowing very well that we did not touch the deductibility of income taxes, we allowed the deductibility of property taxes, but he would not give us the opportunity for the deductibility of sales taxes.

We struck no blow at the taxpayers or citizens of any other State. They still had the choice and 100 percent of them could choose the income tax if they chose and it would be exactly where this bill is now.

□ 2100

Some might find it better to choose the sales tax, and to that degree their citizens are better off, not worse off.

I suggest to the Senator from Minnesota that in contrast to his list we could start with Arizona and end up with Wyoming. The citizens of every State would be somewhat better off with perhaps the single exception of the distinguished State of New Hampshire, which has neither a sales nor an income tax.

But nonetheless, Mr. President, it is apparent that this Senate at this time and with this source of revenue is unwilling to remove our States as hostage. Some suggest that a better idea is to send a sense-of-the-Senate resolution to the conference committee. Well, I do not know. I used to receive messages to the Governor from the legislature. They used to send memorials to Congress, and I wonder if anyone here ever saw a memorial to Congress sent by a State legislature. I suggest that a resolution of this sort is very much like John Nance Garner's description of the Office of the Vice Presidency, "It ain't worth a pitcher of warm spit." And if we deceive ourselves by thinking we are somehow going to help the citizens of the States who depend primarily on sales taxes by sending a resolution to the conference committee, we are simply kidding ourselves.

But, Mr. President, this has been an interesting debate. It is obvious that the source of revenue is not likely to help us carry the day. In a moment I am going to withdraw the amendment, and withdraw it but temporarily and seek another perhaps more suitable source of revenue because we have not solved the problem. We will not solve the problem with a resolution to the conference committee. We cannot afford to turn over from this body to a closed corporation the decision which is so critical to our States.

I can say, Mr. President, to my colleagues in the Senate that we will indeed be back, maybe more than once, until we finally capture the attention of this body with perhaps a more suitable source of revenue, but never deviate from the course we seek which is to relieve our own citizens of the extra burden the Finance Committee has caused us to bear by this totally unfair discrimination in the deduction of various local taxes.

With that, Mr. President, I withdraw the amendment.

Mr. GRAMM and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GRAMM and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the distinguished senior Senator from Florida and I, joined by a number of cosponsors, perhaps as many as 30, have a resolution with reference to the sales tax that we desire to offer. We, I think most people know, intend to offer the resolution. We need a little bit of time to contact one of the prime sponsors who is unaware of the fact that we were going to do this at this time. They thought the amendment that was just withdrawn would proceed through its normal course which would have in all events taken another 15 or 20 minutes, maybe 30 with a rollcall vote.

So I want to inform the Chair and Senators that we intend to proceed shortly. We must talk with a few Senators, or at least we will advise the Senate where we stand on the resolution.

I yield the floor at this time.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I intend to support the resolution stating the sense of the Senate that the Senate conferees seek to get full deductibility of the sales tax. But given the debate that has just passed, I feel constrained to make a few comments about the debate, and about the issue.

I think our distinguished colleague from Washington, Senator GORTON, has already said more eloquently than I could how absurd the whole argument was about this amendment, which has just been withdrawn, picking and choosing between good deductions and bad deductions. In fact, we made not a single distinction that was not made in the bill which is before us. The statements that we had for the first time proposed to disallow a key element of State and local taxes is absurd. The Finance Committee did that. But those points have already been made with great eloquence, and I just simply will let them stand.

But I want to make a point. The other day we all decided that IRA's would be wonderful things to have, except we were not willing to belly up to the bar and say how we were going to pay for them. As a result, we passed a sense-of-the-Senate resolution that said give us full deductibility of IRA's, and then you figure out where you are going to get $25 billion.

Mr. President, we are getting ready to do another resolution. I strongly support it. In fact, I have endorsed this bill despite the fact that it is unfair to my State because I think it is good for America. And I think the people in my State support it even though it is unfair to them. I am hopeful that we are going to correct it. I am going to support this sense-of-the-Senate that directs our conferees and states our position. But that is going to add another $17 billion that we have to come up with. That gives us a total of IRA's and sales tax deductibility of $42 billion in new revenues.

Distinguished Senators, that revenue is not coming from Heaven. We are going to have to take $42 billion worth of benefits away from somebody or raise some rates. The thing that bothers me is that the Senators who worked on this amendment went to great lengths to modify an element of the existing bill before us that made no sense, that did not follow the principle of the bill, and that could be improved and also pick up revenues. Yet, even the suggestion that we apply the same rules of the bill to loans that are made against one given asset, the American home, the mere suggestion of that brought hues and cries from every quarter.

It is all right for the Senate Finance Committee to say you cannot borrow money for a boat and deduct the interest, or you cannot borrow money for a fur coat and deduct the interest. But you can borrow money against your home and buy a boat or buy a fur coat and deduct the interest. I submit to my colleagues that makes absolutely no sense. Either interest on a fur coat and a boat ought to be deductible or it ought not.

So our position was a reasonable position. But the point I want to leave you with is this:

If we cannot make that kind of decision, if we cannot simply apply the ability to deduct mortgage interest to buying, owning, and improving a home, which after all is what it is for, not to buy boats or fur coats—if we cannot make that little decision, if we cannot be willing to stand up and say no, we are not going to let people go out and use their homes as an asset and buy an automobile when they cannot deduct the interest on the automobile but they use the home as a shelter to avoid taxation. Then how will we make the tougher decisions?

As the distinguished Senator from Louisiana said in a very astute observation that never struck me in my dullness, if somebody has a big balance sheet, they can borrow many times the value of their home by using their home and their balance sheet as an asset, and deduct all the interest. Either that is an absurdity or this bill is an absurdity. You cannot have it both ways. If that kind of interest should not be deductible, then using the ruse of mortgaging a home, many, many times is an absurdity.

Mr. JOHNSTON. Will the Senator yield?

Mr. GRAMM. I will be happy to yield but let me make one additional point lest I forget it.

We heard the distinguished Senator from Rhode Island say that clearly people could not go out and buy an automobile and deduct the interest against their home. That is exactly what they can do. I submit to my colleagues that if we do not close this loophole, you will see a proliferation of ads that we are already seeing where people will buy automobiles, fur coats, sailboats, and they will circumvent the interest of this bill that was adopted 20-to-0 in committee simply by using their homes as a shelter for taxation.

□ 2110

I think that is an absurd result.

The point I would like to leave you with is this: If we cannot make that difficult little decision, the $3.3 billion, how are we going to come up with $42 billion? How are we going to have IRA's fully exempt? How are we going to reinstate the full sales tax?

Do you realize that is more than 10 times the amount of money we were talking about here, and we were talking about the absolute most rotten element of this tax bill, a wonderful tax bill but still with little rotten elements?

If we cannot make that decision, how is the conference committee going to deal with these problems?

I yield.

Mr. JOHNSTON. Back at the turn of the century when I used to practice law, I remember there was a device by which a builder would put a construction mortgage on a home for a big amount as he started his construction. Let us say the house is going to cost $100,000 to build. He would put a mortgage on that for $100,000 to start it off before he charged any material or had done any labor. Thereafter, he would just execute hand notes, as we would call them, as the labor would accrue, as construction materials were ordered. All of those, by this agreement, would be all secured by the mortgage.

My question is this: What would prevent the American Express Co. or the

MasterCard Co. or any of these credit card companies from telling someone, "Look, you go out and put a mortgage on your home secured by a big note and we will make an agreement with you that every one of our charges on this American Express" or other travel card "is going to be secured by that mortgage and you will be able to deduct it from your income tax return as being mortgage interest."?

What is going to prevent that?

Mr. GRAMM. In responding to the distinguished Senator from Louisiana, not only is there absolutely nothing to prevent that from happening but even as we speak smart entrepreneurs are preparing to work under this tax bill using exactly those provisions. That is why closing this loophole is important. Forgetting the fact of sales tax deductibility is good tax policy, this loophole ought to be closed no matter what, because we are opening up a huge area for abuse.

This abuse is not going to take place as a result of action by mom and pop both working earning $35,000 or $40,000 a year. This is going to take place by people who have a lot of money. We are going to have a profiteering group of entrepreneurs who are going to set up all these shells which are going to abuse what was intended to be a real reform for taxes.

Mr. DOMENICI. You do not really believe that when they finish this bill in conference that they will leave the mortgage home deductibility as it is before us and yet restrain consumer product interest payments, do you?

Mr. GRAMM. Let me say to my distinguished colleague from New Mexico, I can only judge by what we have before us.

Mr. DOMENICI. What I am saying to you is that that cannot happen. This is going to get worked out somewhere, some way or another. If you are not going to let somebody deduct the interest on a Mercedes-Benz that they want to buy on a note, on a chattel mortgage, you are not going to let them, as the bill says, but you will let them put a second mortgage on their home and pay off the Mercedes-Benz dealer and pay off the finance dealer and deduct it as interest on the home?

They are not going to allow that. I do not think your amendment is losing because of that.

Mr. GRAMM. If I might respond to my colleagues, there have been four members of the Finance Committee on this floor who have argued exactly that point. Depending on where the cutoff is in conference, the conference committee may or may not do it.

Mr. DOMENICI. Let me make sure you did this in the amendment that was drafted: Did you take care of the people who have a lot of children in college?

Mr. GRAMM. We have the Domenici provision.

Mr. DOMENICI. You put that in there?

Mr. GRAMM. Yes.

Mr. DOMENICI. And it is not for 1 or 2 but goes on for 7 or 8?

Mr. GRAMM. It would be cut off at seven, but theoretically if one had more than seven in college that could be provided for.

Mr. DOMENICI. I thank the Senator.

Mr. GRAMM. Let me make one final point. We will defend this resolution which I supported for $42 billion of additional taxes on somebody. I am simply making the point that somewhere something has to give. We all want these rates. We all want to preserve apparently the remaining loopholes. But we are talking about $42 billion that has to come from somewhere.

I hope we have people who can work magic on the conference because it is going to be very tough to do.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. Has the Senator from Texas yielded the floor?

Mr. GRAMM. I yield.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I will be very brief. I think this debate at least for me has been quite useful. This amendment simply cannot be the law of the land. It simply is unfair, unworkable, and an invitation to massive evasion. It would be the laughing stock or the crying stock of the country if it ever got to be the law. It would be totally unworkable.

I think most everybody agrees to that in one way or another. One group will let us have a resolution and let it be solved by the conference committee. Others are struggling with sensible ways to have it be done.

Mr. President, my suggestion would be that the Finance Committee, those who have wrestled with this bill, seek overnight to formulate some amendment that is sensible. I think those of us who support this bill, and that is certainly the vast majority, want to have tax policy in this area that is fair and workable. This is neither.

It is simply not an answer to say we are going to pass some vague resolution to let the conference committee solve it. It should not be that difficult a question to solve, at least to be fair and enforceable and workable.

If that needs to be changed in the conference committee, let it be changed in the conference committee. But at least when it leaves this body it should not be so ridiculous on its face.

Let us face it, this is ridiculous. It is absurd on its face.

How did we ever get this part of the bill that is a rotten hole in this pretty apple? It is a wonderful bill, most of it. It got the rates down. I praise everybody who had anything to do with it. Except that you have this rotten hole that ought to be changed.

I wish that the distinguished chairman for whom we all have great respect would somehow say, "Why don't we recess overnight and work it out in a fair and workable way," at least so that when it leaves here it is fair and workable.

Mr. EVANS. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. EVANS. What we are trying to correct in this amendment is two rotten holes, not just one. There is the fairness in the way deductibility was handled and as the Senator from Louisiana pointed out so eloquently the ridiculous extent to which this loophole could be carried. We tried to correct both. At least it appeared that temporarily we should retire from the field, but only temporarily. I would certainly agree with the Senator that perhaps overnight would bring some calm, sweet reason.

I do not have any greater confidence, in fact some considerably smaller degree of confidence, in a resolution asking that the conference committee handle this problem, after listening to the comments of the distinguished members of the Finance Committee who spoke out against this amendment.

□ 2120

I fear more than ever for the citizens of my State that we will somehow not be allowed to deduct virtually any of our local taxes and then turn it over to a conference committee which very well may not be able to accommodate us.

With that, let me ask the Senator if he does not believe that perhaps it will be difficult in a conference committee to carry forward the fine intent of the resolution which I understand is about to be offered, when the Senator from Texas points out that we are talking now about $42 billion. When you put that in context with the wording of the previous resolution, the IRA resolution, which said that the Senate conferees give highest priority—highest priority—to retaining maximum possible tax benefits for individual retirement accounts. That sounds very much to me like a sales tax deduction is second in line and less likely to be taken care of than the IRA's.

With $42 billion, does the Senator believe it is likely that we will be able to accommodate everyone and still keep the essence that is so important to the supporters of the bill in the Finance Committee, the magic 15-27-33 marginal rates? You cannot make something out of nothing, I suggest.

Mr. JOHNSTON. Mr. President, I agree with the distinguished Senator. I believe it would be very hard for the conference committee.

Let me say if I were a conferee on this bill, I would hate to go to conference with this particular piece of trash—maybe that is too strong a word—with this rotten provision, because if I were on the House side of the conference, I would say, "They cannot accept that because it makes no sense; therefore, I, as a House conferee, know they have to take just about anything that we offer."

I will say this for conference committees. Conference committees are more unpredictable. They can be less responsible. They can be more outrageous than maybe ordinary committees or floor action because that is the last stop on the trolley and they know that you cannot come back from conference and take another look. All you can do is vote the whole package up or the whole package down.

This ought to leave the Senate in at least a sensible form and it would be possible to put together a sensible amendment. I do not know whether the Senator from Washington will have the right formula or whether the Senator from Arizona will do it. But we ought to have the fine hand of the distinguished chairman, the Senator from Oregon [Mr. PACKWOOD] and his staff, maybe working overnight, and move on to some other subject. They can report back a bill everybody can accept. Nobody asks for any special advantage out of this. All we ask is a sensible solution to what is an unacceptable provision, I think.

AMENDMENT NO. 2076

(Purpose: To express the sense of the Senate that the deductibility of State and local sales, real and personal property, and income taxes be preserved in full)

Mr. CHILES. Mr. President, the tax reform bill that we are now debating on the Senate floor takes us a long way toward true reform of the Income Tax Code. I commend the chairman and the ranking member of the Senate Finance Committee for their outstanding efforts to reform the Nation's tax laws. The citizens of our great Nation deserve a fair and equitable tax system. The bill before us takes a giant step toward accomplishing that goal.

Unfortunately, the repeal of the deduction for State and local sales taxes is not a step forward. I believe it is a step in the wrong direction. Denying the deduction for sales taxes is not true tax reform in any stretch of the imagination. Instead it is unwarranted Federal meddling in the tax policies of our States.

Today, with 30 of my colleagues, I am introducing a sense-of-the-Senate resolution to preserve the full deduction for State and local sales, property, and income taxes. I am joined by Senator DOMENICI, Senator MOYNIHAN, Senator DURENBERGER, Senator SASSER, Senator GORTON, Senator BINGAMAN, Senator WEICKER, Senator INOUYE, Senator HECHT, Senator LAXALT, Senator ARMSTRONG, Senator EVANS, Senator GRASSLEY, Senator MATSUNAGA, Senator PRYOR, Senator CRANSTON, Senator FORD, Senator ABDNOR, Senator D'AMATO, Senator DIXON, Senator DODD, Senator GLENN, Senator GORE, Senator GRAMM, Senator JOHNSTON, Senator LEAHY, Senator PRESSLER, Senator HAWKINS, and Senator WILSON.

It is not my intent here to defend the merits of the State and local sales tax. I do not believe this is the appropriate forum for such a debate. The fact is that by repealing the deduction for State and local sales taxes, the Senate Finance Committee has decided for the States that one type of tax is better than another. It is not up to the U.S. Senate to make that decision. It is not up to the Federal Government to determine what methods of taxation the States should use or how they should raise revenues. That right belongs to the individual States and their citizens.

The residents of Florida have selected the sales tax as the principal source of revenue for our State. In fact, more than 50 percent of our revenues are collected from the sales tax. We use those funds to improve our schools, strengthen law enforcement efforts, and to meet our growing public infrastructure needs. Those funds not only meet the needs of our residents, but they also provide the services and facilities demanded by our many visitors.

Florida seeks no special advantage in this tax bill. We only ask for the fair treatment of both our State and its citizens. We have instituted a sales tax. Other States have an income tax. Both these taxes are deductible now from Federal taxation, and have been deductible since the inception of the Federal income tax. The deduction for State and local taxes is the foundation of our system of federalism. It safeguards State revenue sources from the effects of double taxation, and, it provides State and local governments the ability to establish their own tax systems without Federal intervention.

Eliminating the deduction of the State sales taxes would be unreasonable. It would also result in severe economic costs to the State as it attempts to maintain its revenue base in the face of Federal tax policy that unfairly dictates State tax policy.

Mr. President, my State is proud of the fact that we have not had to levy a State income tax. It is written into our constitution that there will not be a State income tax. I will tell my colleagues, it is verboten for any politician to talk about levying a State income tax. We feel that we have been frugal in the way we operate our State. We have been able to do that by the use of the sales tax, and our sales tax, I would say, is not higher than the average or even as high as the average in most States. But now, in effect, by the bill we have before us, Florida is to be penalized because we do not have an income tax.

In conclusion, Mr. President, I reemphasize my support for tax reform. The bill before us is a vast improvement over the current Tax Code. But like anything else, it can be improved. And I believe it can be made better without altering its fundamental fabric. Restoring the sales tax deduction would make a good bill even better. And I hope my colleagues will support this resolution.

Mr. President, I send to the desk the amendment I have just addressed myself to on behalf of myself and Senators DOMENICI, MOYNIHAN, DURENBERGER, and the others I have listed. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] for himself and Mr. DOMENICI, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. SASSER, Mr. GORTON, Mr. BINGAMAN, Mr. WEICKER, Mr. INOUYE, Mr. HECHT, Mr. LAXALT, Mr. ARMSTRONG, Mr. EVANS, Mr. GRASSSLEY, Mr. MATSUNAGA, Mr. PRYOR, Mr. CRANSTON, Mr. FORD, Mr. ABDNOR, Mr. D'AMATO, Mr. DIXON, Mr. DODD, Mr. GLENN, Mr. GORE, Mr. GRAMM, Mr. JOHNSTON, Mr. LEAHY, Mr. PRESSLER, Mr. HAWKINS, and Mr. WILSON proposes an amendment numbered 2076.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . DEDUCTIBILITY OF STATE AND LOCAL SALES, REAL AND PERSONAL PROPERTY, AND INCOME TAXES.

(a) FINDINGS.—The Senate finds that—

(1) a deduction for State and local taxes has been allowed by Federal income tax law since 1861,

(2) the deduction for State and local taxes is a cornerstone of Federalism, protecting State revenue sources from the effects of double taxation and allowing State and local governments that flexibility to develop tax structures without Federal interference,

(3) elimination of the deduction for State and local taxes would constitute an unjustified Federal intrusion into the fiscal affairs of States and prejudice the right of State and local governments to select appropriate revenue measures,

(4) elimination or restriction of the deductibility of some State and local taxes would encourage States to shift tax levies to taxes which continue to be deductible, increasing the tax burden of certain segments of the population and undermining the ability of State and local governments to raise revenue.

(5) the deduction for State and local sales taxes is the single most popular deduction in the Internal Revenue Code of 1954,

(6) the revenue measures selected by a State should not significantly alter the value of the Federal deduction for State and local taxes paid by its citizens,

(7) sales taxes are used by some State and local governments as general purpose taxes, while other jurisdictions use income and property taxes as general purpose taxes,

(8) funding for public education, the largest category of expenditure for State and local governments, would be affected by any restriction on the deduction for State and local taxes, and

(9) the sales tax is the largest source of revenue for all States combined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any tax reform legislation should preserve the full deduction for State and local sales, real and personal property, and income taxes.

□ 2130

Mr. CHILES. Mr. President, this is as I have described a sense-of-the-Senate resolution asking the Senate to express itself very strongly that we should not be trying to make this choice between the States, but sales taxes just as income taxes, just as property taxes, should be fully deductible.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I join my good friend, the senior Senator from Florida [Mr. CHILES] in cosponsoring this resolution. Obviously, the Senate believes that it is basically unfair to permit the deduction of property taxes and income taxes in the respective States as a local deductibility and to exclude sales taxes. There is no doubt in my mind that the House of Representatives bill dealt fairly with all States once they arrived at the conclusion that there was a philosophical and practical reason to permit the local deductibility. They permitted them all to be deducted in toto, 100 percent. They did not discriminate between them and they dealt evenly and fairly. I do not believe there is a chance that the U.S. Senate is going to get a conference bill back here that in any way treats these taxes differently. I do not believe they are going to get a bill back that says a part of each one. I believe it is going to be 100 percent of all of them.

Now, we have a situation in the Senate where this bill has been put together with substantial support, and if someone can come up with an amendment tomorrow that does not instantly draw opposition because of the choice of revenues to pay for it, the Senator from New Mexico will be back on the floor supporting it. But it is obvious to me that there are great disparities between the House bill and the Senate in addition to the sales tax issue. Sales tax is a $17 billion issue over 5 years. There is a $26 billion difference on the IRA's, and I do not believe anyone really thinks you are going to come back with some portion of the IRA's. I do not have the magic here tonight, I do not think anyone does, to figure out what you are going to change between those two bills for conference. But I believe both are going to be restored, both provisions. We are going to get a bill back from that conference which treats our States fairly with reference to local tax deductibility, that treats us as a United States with sovereign rights to decide how you are going to tax your people for locally without penalizing them if they choose to go the sales tax route in whole or in part. My State has a mix. It turns out that I do not benefit as much as some others from the right-to-choose amendment that I was willing to support. I thought maybe it sent a partial message. This resolution sends a total message. It does not say part of it. It says all of it. It says treat them all the same and all 100 percent. I hope the Senate votes in resounding support for this and there will be no alternative but to find some way to accommodate to simple, absolute fairness. We are not asking for any privileges. We are not asking for any special gift. We are just asking to be treated fairly.

Mr. LONG. Will the Senator yield at that point?

Mr. DOMENICI. I am pleased to yield.

Mr. LONG. It seems to me that the easiest way to arrive at that conclusion would be to simply say that you cannot deduct the first thousand dollars. That would make more people file the simplified form and, thus, it would be a move toward simplicity. Also, you would not have to argue about which State and local taxes that you want to make deductible and which taxes that you want to make nondeductible. Instead of having 28 percent of the people filing the simple form you would have 88 percent of the people filing the simple form.

Mr. DOMENICI. Let me say to my good friend if he is asking me whether I would support that, since I favor local tax deductibility 100 percent, I favor 100 percent for all of them, not just for income taxes and property taxes. The Senator's State and mine choose in their local wisdom through their legislatures, city councils, parishes, whatever we have, to pay for a lot of our services with sales taxes and we ought to have the same privilege. If that is what you end up with, same privileges for all of them, you are not going to get any kind of argument out of the Senator from New Mexico. That is all we are talking about tonight. If we are going to have 100 percent for property, 100 percent for income, we want 100 percent for sales.

Mr. CHILES. Will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. CHILES. I do not think this is a new subject that the Senator is discussing with the Senator from Louisiana. I learned about this policy of the States being sovereign governmental bodies and should have the right to make these decisions at the knee of the Senator from Louisiana. I have heard him speak not once, not twice, not dozens of times, but multiple times more than that that a State should be able to have tax-exempt bonds and the Federal Government should not be able to go in and say we are going to tax these bonds. He cites the Constitution. He cites case law. So you are not giving a new subject to the Senator from Louisiana. I am sure he is not singing a new song on this either because I know his record is so long and is so thorough and so complete in that that I am confident before it is over he will be preaching that sermon again if we need any votes because he has been the authority on that proposition over all these years that I can remember.

Mr. DOMENICI. I thank the Senator. I do not have any doubt either that he is going to be singing our song not only tonight when he votes for this resolution but when they go to conference.

Mr. CHILES. That is why I trust putting this to the conferees.

Mr. DOMENICI. In fact, I have no doubt that we did not even have to remind him tonight, did we, I say to my friend from Florida. He knew it all the time. It is just that we felt that we had to get it out of our craw tonight, that we want fairness and nothing more. We think this is a wonderful bill, magnificent, if it will just treat us all the same.

Incidentally, we have a Treasury agent who does not even know New Mexico is in the Union. Maybe that is why they want to treat us differently. Did you know that there is a Treasury agent who wrote a letter to a former Governor of my State running for the Congress and said, "Mr. Cargo, we hereby assess you 30 percent of your Treasury bonds because you live in a foreign country." And he even said the State of New Mexico is your residence. I thought maybe he read Mexico. But it said, "You are a resident of: address, Albuquerque, NM." Right in his letter. He signed it and he said, "You have to pay 30 percent." This former Governor called him up and said, "Do you know New Mexico is in the Union?" He said, "Well, I think so." He said, "Did you ever hear of the chairman of the Budget Committee, Senator PETE DOMENICI?" this fellow is up the street in one of these offices. He said, "Yes, I heard of him." He said, "Where do you think he is from?" He said, "Somewhere way out West."

Maybe Mexico, I don't know. But, we want the Senator to know that we are in the Union and we want to be treated with no favoritism, fair and square. I yield the floor.

Mr. SIMPSON. Mr. President, I rise to oppose the amendment offered by my good friend Senator DOMENICI

which states the sense-of-the-Senate that all State and local taxes—sales, property, and income taxes—should remain deductible.

I come from a State which relies extensively on sales taxes and which does not have a State income tax and cannot institute one under a restriction in our constitution. Along with a few other States, we are rather fortunate to be able to avoid that. So it would seem that I might wish to vote to restore the sales tax deduction. But I have looked at this bill as a complete and fragile package—and I feel that the elimination of the sales tax deduction is more than offset by increasing the personal exemption and raising the standard deduction. These are both changes which will benefit the "little guy" or the average American.

Over a 2-year period the personal exemption is rasied from $1,080 to $2,000. For single filers the standard deduction is raised to $3,000, and for joint filers the standard deduction is raised to $5,000. It is really a misconception that the sales tax deduction helps low- and middle-income taxpayers who are most heavily burdened with sales taxes. These taxpayers rarely claim itemized deductions—it is the high income, big spending taxpayers who benefit most from this deduction. In 1984, less than 25 percent of sales tax revenues collected by all of the States were claimed as itemized deductions. The bulk of the sales tax deduction claimed were from people in the upper income brackets—and certainly not by the average American.

We must understand when considering this resolution that restoration would most heavily benefit the heavy rollers and big spenders and not middle-class America.

I am pleased that we were able to defeat amendments last night that would have begun to chip away at this very balanced proposal. I believe that we must keep up our momentum and defeat such amendments or resolutions that threaten to unravel the basic structure of this package.

Mr. BYRD. Mr. President, the language of the amendment before us expresses the sense of the Senate that any tax reform legislation should preserve the full deduction for State and local sales, real and personal property, and income taxes. I support the amendment.

The bill as reported by the Senate Finance Committee retains the full deduction for State and local income and property taxes. However, the bill eliminates the deduction for State and local sales taxes. I support the deductibility of State and local income, property, and sales taxes.

In 1985, 42.9 percent of the State of West Virginia's revenues came from the State sales tax. This tax, with minor exceptions, is dedicated in its entirety to education.

Elimination of the sales tax deduction discriminates against middle-income taxpayers. The sales tax deduction is one of the most popular deductions in the Federal Tax Code. In West Virginia, this deduction accounts for 20 percent of the State and local tax deductions.

In addition, the restoration of the full deductibility of the State sales tax would reinstate the traditional neutrality of the Federal Government in a State's decisions in establishing a revenue system that is responsive to local needs and conditions.

At a time when we are asking States to share a larger portion of the payment of many Federal programs we cannot inhibit their ability to raise revenues by injecting a bias toward certain State and local taxes in the Federal Tax Code. It is an improper intrusion into State policy. I strongly urge the adoption of the amendment.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I was here while the Senator from Louisiana was playing his record for lunch. I was here while he was playing it for dinner, and, like most of my colleagues, I do not tire of listening to him talk about the fiscal relationship between the 50 States and their Government.

Mr. President, today, I join my distinguished colleagues from Florida, New Mexico, Washington, and New York in cosponsoring an amendment expressing the sense of the Senate resolution to preserve the full deduction for State and local taxes.

The tax reform proposal before the Senate goes far in reducing the tax burden on low- and moderate-income individuals. By closing many loopholes, it takes a big step forward in reestablishing fairness in our tax system. But the provision to repeal the deductibility of State and local sales taxes is not tax reform. And it is not good public policy.

Mr. President, when I consider this issue, my perspective inevitably reflects my position as chairman of the Senate Intergovernmental Relations Subcommittee. I am in a unique position to observe all facets of the complex web of relationships among Federal, State, and local governments that we call federalism. And from where I sit, it's clear to me that the proposal to repeal the sales tax deduction is but another assault that we, at the national level, are launching on State and local governments.

In Federal grant programs, State and local programs have taken drastic cuts. Between 1980 and 1985 grants to State and local governments declined by 23 percent in real terms, while defense grew by 40 percent and interest on the debt by 87 percent. Real spending in health services is down 14 percent. Mass transit is down 19 percent. Economic Development—39 percent. Social services—25 percent. Training and employment—69 percent.

In the area of regulation, the Federal Government continues to pile mandates on State and local governments. We used to provide grant money to sweeten the pot—now we pass on unfunded mandates without regard for the abilities of the governments to pay for the mandates. For example, we recently voted to add more regulations to the Clean Water Act. Yet, if the President has his way, we'll phase out the $2.4 billion wastewater construction grant program by 1990.

Now we are beginning the war on taxes.

We are proposing to repeal the deduction for State and local sales taxes.

Some of you may think that sales tax revenues are not really important to States. Well, that's only true in four States that don't levy sales taxes—Oregon, Delaware, Montana, and New Hampshire. On average, sales tax revenues are the largest single source of revenues for States—providing more than $60 billion a year. And there are 13 States that receive more than 40 percent of their deductible tax revenues from sales taxes, including Louisiana—69 percent, Hawaii—52 percent, Tennessee—61 percent, Mississippi—57 percent, and Oklahoma—42 percent.

While these statistics are compelling, they only begin to touch the heart of the matter. The real issue is this: We must defend the ability of State and local governments to collect the revenues they need—from the resources they have—to provide basic public services to their citizens. Mr. President, if we compromise now, the next assault on deductibility will be even worse. At a time when State and local governments are under seige, we cannot afford to hit at the last, untouched source of State and local financing. We must maintain, unblemished, the full deductibility of State and local taxes.

The deduction for State and local taxes is not just another special interest loophole. Since the creation of the Federal income tax, the deduction has been accepted as a necessary feature of federalism. It preserves a portion of the tax base for State and local governments to fund the services which we count on them to provide—education, public health, police and fire protection, clean air and water, to name just a few.

Repeal of sales tax deduction would be the first step in undermining the fiscal foundations of State and local governments. And it would constitute gross and unwarranted intrusion in the fiscal decisions of State and local citizens and elected officials.

Repeal of the sales tax would arbitrarily create winners and losers and increase the fiscal disparities that exist among States. The average per capita income of the 13 States that would be hardest hit by this proposal is 12-percent below the national average. In contrast, the 13 States that would be least affected by this proposal have an average per capita income 3-percent above the national average.

For many States, limiting the deduction will result in a decline in State and local services. States finance nearly half the costs of elementary, secondary, and public higher education. The proposal to repeal the sales tax would sharply increase pressures to cut public education expenditures, particularly in seven States—including Idaho, Iowa, and North Carolina—where more than 50 percent of the sales tax revenues support education.

The proposal is unfair to State and local policymakers who have developed their tax structures in response to the particular needs, characteristics, and resources of their citizens. Repealing the sales tax deduction would cut short State and local efforts to broaden and diversify their tax bases—a necessity in this time of reduced Federal and property tax limitations. It will distort policymakers' decisions in favor of those taxes that remain deductible—property, income and corporate. And because of this shift, over the long run, the Federal revenue gain would be reduced or even eliminated.

Repealing the deduction for sales taxes is not an acceptable or fair compromise. Nor is a floor on State and local tax deductions or a ceiling or an across the board limitation or any combination of these.

In fact, no compromise is acceptable. Selective repeal or an across the board limit as some have proposed would just be the foot in the door for those eager to shift the cost of tax reform and lower rates to State and local governments. The fact is that once we consider one modification, one compromise, the next one will be easier to make. We have only to look at the medical deduction to understand the problem. We began the medical deduction with a 2-percent floor. That floor was soon raised to 5 percent. The chairman's proposal would raise that floor to 10 percent. The same thing will happen with deductibility.

In short, we must have no less than full deductibility of State and local taxes. This principle of federalism has served our country well for over 100 years. We should not abandon it for a quick-fix solution to the problems of tax reform. I urge my colleagues to join me in supporting the amendment expressing the sense of the Senate to preserve the full deductibility of all State and local taxes.

Mr. MOYNIHAN. Mr. President, I rise today to cosponsor a resolution to affirm the importance of preserving the Federal tax deduction for all State and local taxes.

A little over 1 month ago—in the early morning hours of May 7—the Finance Committee unanimously approved the bill before us today. I believe it is the best piece of tax legislation ever produced by this Congress. I was one of that "core group" of Finance Committee members—Chairman PACKWOOD, Senators DANFORTH, CHAFEE, BRADLEY, MITCHELL were the others—who met mornings and weekends to work out the details of this bill, when it appeared that true tax reform could not be achieved.

Those who have followed tax reform through its embryonic stages—by my count, there have been no less than eight comprehensive proposals to reform the Tax Code within the last few years—will remember that several proposals have surfaced that would repeal or limit the deductibility of State and local taxes. These have covered the spectrum of possibilities from complete elimination of the deduction to complete retention and a variety in between. All of them violate a key principle of our system of federalism: that the Federal Government shall not infringe upon the revenue sources of the States.

Along the way, a general consensus has evolved, both here and in the House, that the deduction for State and local income and property taxes be preserved. Only one issue remains: what to do about State and local sales taxes? The House made its decision, and I think the right one, last December, when it voted to preserve the deductibility of all State and local taxes, including sales taxes. Under the constraints of producing a revenue-neutral bill, the Finance Committee found it necessary to do otherwise. We have been assured by the distinguished chairman of the Finance Committee and recently by the majority leader, that they will endeavor to restore the deduction for sales taxes in conference. We, who have taken up this cause, offer this sense-of-the-Senate resolution to assist in bringing about that result.

Since 1861, when the first income tax was enacted to finance the Union effort, taxpayers have been able to deduct all State and local taxes in the calculation of their taxable Federal income. It was understood, as a matter of common logic, that to do otherwise would constitute double taxation of income. This logic, I believe, is no less compelling today. For eliminating this deduction not only threatens the independent revenue-raising power of the States and dangerously undermines the federalist distribution of power but, to my mind, constitutes the most extreme form of Federal intrusion into States' fiscal affairs.

How could this fundamental principle of federalism have been put risk? One of the reasons—perhaps the only real reason—that the proposal to repeal the sales tax deduction got anywhere was the need for revenue to pay for lowering the rates, as this bill so dramatically does. Yet the provision is not likely to raise anywhere near the $17 billion estimated. Many State and local governments will, over time, shift their taxes to those that remain deductible—and the Federal Treasury will come up short.

Mr. President, the Federal deduction for all State and local taxes is a cornerstone of our federalism. I urge my colleagues to support this effort to preserve this fundamental principle. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate the question is on agreeing to the amendment. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—76

Abdnor	Ford	Mattingly
Andrews	Glenn	McClure
Armstrong	Goldwater	McConnell
Bentsen	Gore	Metzenbaum
Biden	Gorton	Mitchell
Bingaman	Gramm	Moynihan
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bumpers	Hatch	Proxmire
Burdick	Hatfield	Pryor
Byrd	Hecht	Quayle
Chiles	Heflin	Riegle
Cochran	Heinz	Rockefeller
Cohen	Hollings	Sarbanes
Cranston	Inouye	Sasser
D'Amato	Johnston	Simon
DeConcini	Kassebaum	Specter
Denton	Kasten	Stafford
Dixon	Kerry	Stennis
Dodd	Lautenberg	Symms
Dole	Laxalt	Thurmond
Domenici	Leahy	Weicker
Durenberger	Levin	Wilson
East	Long	Zorinsky
Evans	Lugar	
Exon	Matsunaga	

NAYS—21

Baucus	Humphrey	Roth
Bradley	Kennedy	Rudman
Chafee	Mathias	Simpson
Danforth	Melcher	Stevens
Eagleton	Murkowski	Trible
Hart	Packwood	Wallop
Helms	Pell	Warner

NOT VOTING—3

Garn Hawkins Pressler

So the amendment (No. 2076) was agreed to.

□ 2200

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

● Mr. BINGAMAN. Mr. President, I would like to offer my strong support for the tax reform package that is now under consideration by the Senate. This bill proposes radical, but needed, changes in our Tax Code. It is a watershed. It truly calls for a fairer and simpler tax system. And, the changes it makes constitute a real improvement in existing law. As such, I support its adoption by the Senate and its enactment into law.

I. COMMITTEE ACTION

The entire Senate Finance Committee deserves our congratulations for producing this unanimously reported reform package. In particular, I commend the distinguished chairman, Mr. PACKWOOD, for his leadership and perseverance, and the distinguished ranking minority member, Mr. LONG, whose experience and expertise developed over many years helped shape this delicate compromise and hold it together once it was reached.

There is another member of the committee, Mr. President, who I feel deserves special praise, because in my opinion, more than anyone else he is the architect of the package before us today. The senior Senator from New Jersey, Mr. BRADLEY, has provided the substance around which this bill was developed. The Bradley-Gephardt Fair Tax Act, which I have been proud to cosponsor, has served as a lightning rod to stimulate debate on tax reform and was, in my opinion, the blueprint for the bill we are considering today.

II. OVERVIEW

The bill before us represents a major restructuring of the Federal income tax system. The bill significantly reduces tax rates and broadens the tax base by eliminating a variety of tax benefits and preferences.

A. SIMPLICITY

The bill calls for a simplified tax structure, with just three rates. It eliminates the current 14 rates—15 for single taxpayers—ranging from 11 to 50 percent, creating instead only two individual tax rates at 15 and 27 percent. It reduces the top corporate tax rate by one-third to 33 percent. And it severely limits the use of tax shelters.

B. FAIRNESS

The bill is fairer to nearly all Americans. Eighty percent of all taxpayers will have a top tax rate no higher than 15 percent, the lowest individual tax rate in over half a century. Approximately 6 million of the working poor will be moved off the Federal income tax rolls entirely. And, fairness is restored to the tax system with tough antisheltering and minimum tax rules.

C. REVENUES

The bill is expected to be revenue neutral. Over the next 5 years, the tax burden of individuals would be reduced by some $100 billion, while corporate taxes would increase by a similar amount. There is a revenue fluctuation problem, but, the chairman has said he will remedy this through technical changes.

III. IMPROVEMENTS

While I support the bill before us in its general provisions and I intend to vote for its passage, I do feel improvements can be made to the bill, without upsetting the delicate balance which has been created. As a result, I intend to listen carefully to the debate on this floor and to consider supporting necessary amendments.

A. SALES TAX

One particular provision in this bill that greatly concerns me is the elimination of the deductibility for sales taxes, despite the fact that the bill retains the Federal tax deductibility for State and local income and property taxes.

Mr. President, singling out the State sales tax is inconsistent and unfair, in effect an intrusion into States' rights to govern their fiscal affairs: It is discriminatory to allow the deductibility of the State income taxes and not allow the deductibility of sales taxes. The deductibility of the sales tax benefits all Americans by raising revenues to fund education, strengthen law enforcement, provide health care, and expand the public infrastructure.

In my home State of New Mexico, the elimination of the deductibility of the sales tax will have a drastic impact, because New Mexico relies heavily on sales tax revenue. In fact, New Mexico has the greatest reliance on sales taxes in the country—72.8 percent of all revenues from deductible taxes. As a result, the repeal of the sales deduction would cost taxpayers 36 percent of their total savings from the full State and local deduction, more than twice the national average. Sales taxes account for 42.1 percent of all State tax revenues in New Mexico.

Because of the impact and the inherent unfairness of the elimination of the sales tax deduction, I will support responsible efforts to restore it.

B. IRA

Another troubling feature of the committee-reported version is the restriction and virtual elimination of the individual retirement account as we know it today.

IRA's have proven to be the most effective and efficient savings vehicle ever for millions of Americans. In 1984 IRA's generated $18 billion in new savings—$7 billion in excess of the revenue loss of $11 billion.

IRA's enjoy widespread popular support. It is estimated that 40 million Americans have IRA's with a total value exceeding $250 billion. And, based on IRS data, 65 percent of all IRA's are held by individuals earning less than $40,000.

The use of the IRA as a tool to provide retirement income has met with great success. Furthermore, we need to do more in this country to encourage greater savings. I think we should think long and hard about the impact of eliminating this popular system of savings.

C. DEFICIT IMPACT

A further concern, which has also been raised by several of my colleagues, is how this bill impacts the deficit. While it is intended to be revenue neutral over a 5-year period I am concerned that we do not know what impact this bill will have on the deficit in the years thereafter. A few months ago we spent a great deal of time passing a Senate budget resolution which calls for $10 billion in deficit-reduction revenues. I think we need to know just where these revenues come from.

I hope that these questions can be answered and improvements made where necessary.

IV. COMPETITIVENESS

As in any important matter, there are winners and losers in this legislation, but I believe there are many more winners than losers. Most individual taxpayers would be winners and most businesses would be winners. As a result I think the bill will promote a stronger economy. It should result in a more efficient distribution of resources, because investment decisions would be made based on economic matters rather than tax considerations. These provisions I hope, will serve to make us more competitive as a Nation.

A. R&D

A number of features would be continued that encourage important research and development activities.

The R&D tax credit would be extended for 4 years at the present 25-percent rate, with important modification to the credit definition of research and with increased incentives for university basic research.

B. ENERGY TAX CREDITS

Business energy tax credits would be extended for solar, geothermal, and ocean thermal energy through 1988, and for wind energy and biomass through 1987, at reduced rates.

Alcohol fuels and mixtures would be eligible for the gasoline excise tax exemption at the present low rate for alcohol fuels mixtures.

These and other important changes in the bill will help to enhance our Nation's competitiveness.

V. CONCLUSION

Each year the Congress considers many reform measures and it is a true rarity for something Congress passes to deserve the label given to it. In this instance, I think we have a bona fide tax reform measure and I think, with the changes I have outlined, it deserves much support and praise.●

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I am advised by the distinguished chairman, Senator PACKWOOD, that there will be no more votes this evening.

Mr. BYRD. Mr. President, the Senate is not in order. We need to hear what the majority leader is saying about the program. May we have order?

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thank the Presiding Officer.

I am advised by the distinguished chairman, Senator PACKWOOD, that there will be no more votes this evening. He would like to be on the bill at 9:30 and no later than 10 a.m. tomorrow morning. There will be amendments that will then be ready for presentation. I think there will be an amendment by Senator KASTEN.

Let me yield to the distinguished chairman.

Mr. PACKWOOD. Mr. President, the reason we say 9:30 or 10 is that I have an 8:30 dental appointment, so I will not be talking as long tomorrow as I have been on some other times.

We will start with a Kasten-Inouye amendment on charitable contributions which will be laid down tonight. Then we will be able to go to some of the transition questions Senator METZENBAUM has. The first one that he is going to bring up is on UNOCAL.

I have indicated to Senators before that I would expect that they would be on the floor to defend their particular transition rules if they were put in at their request. Senator METZENBAUM indicates that by 9:30 or 9:45 in the morning he will be able to tell me what the second one is he is interested in, the third one, and fourth one. We will simply announce that so that you will have a rough idea of when they will go. He does not intend to talk long and I expect we would have three or four votes on them after the Kasten amendment.

Mr. BYRD. Mr. President, will the distinguished majority leader, and the equally distinguished chairman of the Finance Committee, indicate what they would expect for the Senate for Monday by way of convening time and rollcall votes?

Mr. DOLE. Let me again yield to the distinguished chairman, Senator PACKWOOD.

Mr. PACKWOOD. I want to do everything I can to accommodate plans that have been made. I initially indicated I would be ready to go at 9 or 10 o'clock on Monday. That did not meet with overwhelming enthusiasm. But I would be prepared to start at noon and take up whatever amendments we may have and go on through the afternoon and, hopefully, if it is all right with the leader, all day Tuesday and into Tuesday night in the hopes of finishing.

Mr. BYRD. Could we understand that if rollcall votes are ordered in the early afternoon, which they probably will not be, but could we have some understanding there would be no rollcall votes before maybe 3 or 4 o'clock in the afternoon? Could we have an understanding of that kind?

Mr. DOLE. Three o'clock? There might be rollcall votes ordered, but it would be agreed if there were rollcall votes ordered, more than one, we would stack them until 4 o'clock.

Mr. BYRD. Let us make it 4 o'clock. How about 4 o'clock?

Mr. LAUTENBERG. If we are going to stack votes, could we then start at 4 instead of 3?

(Mr. SPECTER assumed the chair.)

Mr. DOLE. We just decided to compromise at 3:30.

Mr. LAUTENBERG. I thank the leaders for their consideration.

Mr. DOLE. Mr. President, does the distinguished Senator from Wisconsin wish to lay down his amendment at this time?

Mr. KASTEN. I am not prepared to lay down my amendment at this time. I will be in about 3 minutes.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Alaska.

GEORGE LEHLEITNER CELEBRATES HIS 80TH BIRTHDAY

Mr. STEVENS. Mr. President, I see my good friend from Louisiana here today. We had a conversation earlier today and we would like to talk a little bit about a distinguished resident of Louisiana.

Mr. President, Saturday, June 14, is not only Flag Day, it is the 80th birthday of a man who represents what the true spirit of America is about.

Because of this man's selfless efforts in aiding Alaskans to achieve statehood, Alaska's flag now flies from the staffs of the 49th State, right beside Old Glory.

George Lehleitner is the man I want to honor. A Louisianian who lives in Covington in the Bayou State, he is an adopted son of my State, remembered in our history books.

A student of American history, described in biographies as "an enlightened New Orleans businessman," George was sympathetic with the statehood aspirations of Alaskans. He took an interest in the statehood movement when he was a Navy volunteer stationed at Pearl Harbor.

Quiet, serious, friendly and unassuming, George Lehleitner traveled to Alaska many times in the early and mid-1950's. He met with our leaders in the statehood battle to explain how a little-known bit of history could be repeated, which could make Congress sit up and take notice of Alaska and Alaskans and their cause to become part of the Union.

George brought his proposal to the late Ernest Gruening, former Governor of the Territory of Alaska who was in the forefront of the statehood movement. George's idea was a simple idea, called "the Tennessee Plan." It was based on the Volunteer State's procedure for achieving statehood almost 160 years before Alaska called its first constitutional convention.

"Elect your Members of Congress before you become a State," George told that hopeful band of Alaska statehood activists. "Elect them and send them down to Washington, DC, to knock on the doors of the Senate and House, just as Tennessee elected two Senators in 1796 to present the cause of Tennessee's statehood to Congress."

Those two men, George explained, traveled to the Nation's Capital and returned home with statehood for their fellow Tennesseans.

Such a plan would work for Alaska, George reasoned with our statehood proponents. If we sent duly-elected Alaskans we were certainly affirming our commitment to becoming the 49th State.

In 1955 the Alaska State Constitutional Convention was in session. After hearing George Lehleitner's proposal, the members adopted it. Alaska's voters nominated what became known as "the Tennessee Plan delegation."

Alaska's people elected as Senators the late William Egan, who went on to serve as our Governor, and former territorial Governor Gruening; and Alaska State legislator Ralph Rivers as Representative.

George Lehleitner's plan worked, with the help of Alaskans and many other Americans who understood and offered encouragement. He resurrected the Tennessee Plan, quietly but persistently convinced Alaskans to try it, and took no bows when the 49th star was added to our flag.

George returned to Alaska from his Louisiana home in 1984 to help us celebrate the 25th anniversary of statehood.

Today, as a grateful Alaskan, I want to offer birthday wishes to George Lehleitner and to salute him for his part in the successful conclusion to our struggle for statehood.

The 49th star on our Nation's flag will shine a little bit brighter this Flag Day, when George Lehleitner celebrates his 80th birthday.

Mr. President, as I said, George Lehleitner came to Alaska in the middle fifties with a new idea, and that was that Alaska should follow the State of Tennessee and adopt the so-called Tennessee plan, create a constitution, and send Senators and a Representative to Washington to petition the Congress to admit Alaska into the Union. Many things happened prior to that time to try to get statehood for Alaska, but I think this was the most unique suggestion, and it worked. It was a very interesting approach.

But we have heard that your good friend, I say to Senator LONG, and our adopted son of Alaska, has not been feeling well lately. My good friends from Alaska have asked me to ask you to convey to him our best wishes and to thank him, as he now reaches his 80th year, for the work he did to help our State in being admitted into the Union.

Incidentally, as you know very well, as a senior Senator from Louisiana, he was very much involved in the work that led to the admission of Hawaii into the Union. I was the Assistant Secretary of the Interior at that time and worked with him and many others.

I believe, to my knowledge, you and the distinguished Senator from West Virginia are the only two here on the floor now who voted for the admission of Hawaii and Alaska into the Union. I think the Senator from Arizona did likewise prior to the time he left the Senate, but I do not think he was here at the time we got admitted.

But I had a series of calls, in all seriousness, asking me to ask you, as a good friend of Alaska, someone who helped us become a member of the Union, to convey to George Lehleitner the best wishes of the people of Alaska and again our thanks to him and to you for working with him on the Alaska-Tennessee plan.

Mr. LONG. Mr. President, I thank my distinguished friend, the Senator from Alaska, for the kind words he said about George Lehleitner.

George Lehleitner is one of God's real true citizens of the world. George Lehleitner believes in democracy, he believes in freedom, and he believes that the more people who enjoy freedom and share it and who participate in democracy, the stronger we will all be.

So, it is consistent with his views that those who are Americans and subject to the laws of this Nation ought to be citizens and they ought to be members of the States and they ought to be participants in this form of democracy.

The Senator mentioned George was a strong advocate of Hawaiian statehood and Alaskan statehood. I believe he started out fighting for Hawaiian statehood first and he became convinced that Hawaii was not able to become a State first.

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He then came to me and told me that he wanted to do some research on the so-called Tennessee plan whereby Tennessee had sent their Senators and Congressmen to Washington even before the Federal Government made Tennessee a State. Those elected Senators and Representatives were seated subsequent to the fact of statehood even though they were elected prior to that time.

Having been provided with the research, he then went to Alaska and undertook to convince the people of Alaska, especially the legislature of that territory, that they should go ahead and elect their Senators and their Members of Congress.

I would like to ask the Senator. Did they elect the Governor of Alaska even though they were not a State at that point?

Mr. STEVENS. No; we had an appointed Governor at that time.

Mr. LONG. They had an appointed Governor. But he urged them to elect their Senators and Members of Congress.

They came here, bless their hearts, and they did a good job representing the State even though they were not privileged to come inside this Chamber at that time. But when the State became a member of the Union they were elected to office to serve thereafter.

Frankly, it is because of George Lehleitner that I came to know two outstanding Americans. A State senator from Hawaii persuaded me to make a trip to Hawaii. I went out there with him. We saw our good friend SPARKY MATSUNAGA out there. I became acquainted with a young man named DANNY INOUYE out there at the time.

DANNY was working at that time for the Director of Civil Defense, Mr. John Burns. The Republicans had the White House, and were in Washington before you had a Republican Governor. The mayor of Honolulu was a Democrat, and he had Mr. John Burns as his Director of Civil Defense. John Burns had his able assistant, a young man, DANNY INOUYE, who I came to know at the time.

We formed a friendship that will last as long as any of us survive.

They persuaded me that I should become very involved in fighting Hawaiian statehood, and also in due course I became a supporter and worker in the effort for Alaskan statehood because George became convinced that to make these two States, or these two territories, States, as they deserved to be, Alaska would have to go in first.

So we did that.

I recall so well that John Burns was a delegate at the time we passed the Alaskan bill, and he had to show supreme statesmanship of asking people to vote against the amendment that would add Hawaii to the Alaskan bill on the theory that those who were seeking that amendment in the main did not want it to become a member of the Union. But he thought putting the two in the one bill would defeat the statehood movement as it had before.

In this case, thanks to Lyndon Johnson, he persuaded John Burns that he should show supreme statesmanship urging us not to add Hawaii to the bill. Alaska indeed obtained statehood. Hawaii then came along behind, and they both gained statehood, and the Nation prospered.

We had some great Senators, and I am sure some great Members of the House. I did not know them as well, but they have some great House Members as well.

But I am particularly proud of the Senators of those two States for the Senators they send to us, and it would have been much more difficult had it not been for the great citizen of Louisiana, Mr. George Lehleitner.

Incidentally, as the Senator so well knows George Lehleitner is a great believer in employee stock ownership. Before anyone in the Congress heard about it, long before I heard about it, he came back from the Navy and established his business. And he felt that the employees ought to own stock in it, and in due course employees own enough stock that they now own it.

He retired, and it is their company. He persuaded me that they have about four times more productivity than their competitors because it is their own company. They own it. They worked to make a great success of it.

Mr. STEVENS. Mr. President, George Lehleitner is a man of great foresight. One of my fondest photographs of that period was taken in the press gallery with Leo O'Brien, Chairman of the House Interior, and Insular Affairs Committee who had worked so hard on statehood. And George Lehleitner and I were looking at a rollcall vote that had just taken place. Most Members of the Senate probably do not realize that Alaska's statehood bill passed the House, and then had to pass the Senate without amendment because we had aborted the Rules Committee in the House. You will recall that. And had the bill gone back to the House of Representations, or gone into conference, it would never have passed.

Those were great days. We are grateful to Senator LONG. But we are particularly grateful for that wonderful man that is a friend of Senator LONG and is a friend of mine who still lives in Covington, LA, and we observe his

birthday. We wanted him to know that.

Mr. LONG. It warms my heart to hear the statement of the Senator from Alaska because it proves something the Senator from Louisiana knew all the time. I do not mind being proved right. I knew it all the time. It confirms what I knew, and that is that Alaskans do not forget their friends, and Hawaiians do not forget their friends.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. STEVENS. I am delighted to yield.

Mr. MATSUNAGA. I thank the Senator.

I wish to join with the distinguished Senator from Alaska in extending congratulations to George Lehleitner, a great friend of mine, and a great friend of Hawaii because it was he who suggested to our distinguished senior Senator from Louisiana that he should take a trip to Hawaii, and support Hawaiian statehood.

Up to that point, the Senator from Louisiana was opposed to Hawaiian statehood but once he got to Hawaii, he was convinced that Hawaii was ready for statehood. Senator LONG returned from Hawaii, took the Senate floor and made his speech in favor of Hawaiian statehood. His action broke the Southern bloc of opposition. Incidentally, the senior Senator from Louisiana was photographed in Hawaii with leis up to his nose. Upon seeing that photograph the then President pro tempore, Senator Richard Russell, of Georgia, remarked "We have lost Russell."

So I wish to join with the Senator in asking that our congratulatory messages be relayed to George Lehleitner.

I thank the Chair.

Mr. STEVENS. Mr. President, Senator MURKOWSKI and I represent people who are extremely grateful for the work that Senator LONG did, and I will say to my good friend from Hawaii that the way in which the Senator entertained the Senator from Louisiana out there in Hawaii meant that he came back and convinced not only that Hawaii should become a State but that he should also help us in order that we could become a State. So the Senator did a good job. We appreciate all of it.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the pending legislation.

The legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

AMENDMENT NO. 2077

(Purpose: To provide for charitable deductions for nonitemizers and to lower the threshold for phasing out the personal exemption)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself and Mr. INOUYE, proposes an amendment numbered 2077.

Mr. KASTEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . CHARITABLE DEDUCTIONS FOR NONITEMIZERS.

(a) IN GENERAL.—Subsection (ii) of section 170 (relating to rule for nonitemization of deductions) is amended to read as follows:

"(i) RULE FOR NONITEMIZATION OF DEDUCTION.—

"(1) IN GENERAL.—In the case of an individual who does not itemize his deductions for the taxable year, the applicable percentage of so much of the amount allowable under subsection (a) for the taxable year as exceeds $200 ($100 in the case of married individuals filing separate returns) shall be taken into account as a direct charitable deduction under section 63.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

"For taxable years beginning in:	The percentage is:
1987 or 1988	50
1989 or 1990	75
1991 or thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1378, line 17, strike out "and".

On page 1378, line 18, strike out the period and insert in lieu thereof a comma and "and".

On page 1378, between lines 19 and 20, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1381, line 13, strike out "and".

On page 1381, line 15, strike out the period and insert in lieu thereof a comma and "and".

On page 1381, between lines 15 and 16, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1384, line 24, strike out the end quotation marks.

On page 1384, after line 24, insert the following new subsection:

"(i) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i)."

On page 1387, line 13, strike out "5 percent" and insert in lieu thereof "12 percent".

Mr. KASTEN. Mr. President, I say to the majority leader that tomorrow we will have an opportunity to discuss this amendment. It will be the pending business.

THE MIDDLE CLASS IN KOREA

Mr. DECONCINI. Mr. President, in June 1963, embroiled in the midst of a horrible war in Vietnam, several Buddhist monks immolated themselves. This was a silent but highly visible protest against a deaf and unyielding regime. That protest erupted into widespread media coverage and elevated public awareness of the Vietnamese situation.

Today, 23 years later, we are viewing similar events in South Korea. Two weeks ago, a 22-year-old student of Seoul National University climbed onto a third-floor ledge of the administration building. After shouting anti-Government and anti-U.S. slogans, he doused himself in gasoline, ignited himself and dove to his death, a human fireball. This latest suicide brought the total to five, including four college students who have immolated themselves in protest against the Chun regime.

As in 1963, these immolations are frightening examples of the dire measures that people will take when they have no recourse within their government. These radical students represent a minority of the 1 million Korean college students. Originally, they attached themselves to the opposition movement led by Kim Dae Jung. They have become impatient and have denounced the middle-class opposition, claiming that it is too conservative. However, the radical nature of the student movement adds an explosive element to an already volatile situation and, therefore, cannot be discounted. The national security of South Korea depends upon listening to the middle class. The middle class wants to peacefully petition their government for constitutional change. They do not shout anti-American slogans.

Recently, I introduced Senate Resolution 392 calling for the President of the United States to support diplomatic exchange and dialog between all opposition parties and the United States Ambassador to South Korea. This resolution urges the President to send a special envoy to South Korea to expedite a peaceful solution. It also expresses the Senate's support for the opening of high-level diplomatic talks between the U.S. Departments of State and Defense, the Chun government, and all leaders of the opposition. I feel that these actions could derail a potentially violent collision.

Democracy, Mr. President, affords us the luxury of diplomacy. It is only when groups feel that they have no effective avenue to pursue grievances

within their government that they turn to the extreme measures that we have recently witnessed. Our own history demonstrates the importance of freedom and representation. Freedom to petition one's government, freedom of speech, and freedom of assembly. This is what the middle class desires.

I would also like to cite a recently released report by Amnesty International regarding increases in the number of people arrested in South Korea for criticizing the Government. This includes workers and farmers as well as students. The State Department says that reports of torture or cruel treatment of prisoners in South Korea have increased "significantly" from 1984 to 1985. This does not appear to be a country moving quickly toward democracy in 1989.

In the Declaration on Independence, Thomas Jefferson expressed the right of the people to change a repressive regime. I am hopeful that the moderate middle class in South Korea will be afforded the opportunity to influence this Government. The radical student groups are desperately reaching out. We cannot afford their despairing attitude to delegate the future. We must encourage dialog. History, Mr. President, will most surely repeat itself if ignored. But if we learn from it, perhaps we can avoid the mistakes of the past and find a peaceful solution.

STINGER VICTORY

Mr. DECONCINI. Mr. President, the Reagan administration decided to remove the Stinger missile from the Saudi Arabian arms sale package. Several Members of Congress had singled out Stingers as a reason for opposing this sale. Many of my colleagues have argued that some of these shoulder-fired missiles might fall into the hands of terrorists, who could use them against U.S. aircraft, civilian commercial jetliners, or military aircraft in the Middle East.

The administration hoped to eliminate the political sting from the Saudi package that both the Senate and House originally rejected by overwhelming margins. President Reagan's idea is that Congress is rightfully fearful that terrorists might acquire these convenient and lethal weapons, and withdrawing them makes the package much more acceptable. The President, in a letter to majority leader ROBERT DOLE, discusses "the particular sensitivity of Stingers being transferred to any country."

Mr. President, supplying Stinger missiles without strict and protective safeguards is not in the national interest of the United States. This perspective has been clearly expressed by Congress in 1984 when the Reagan administration withdrew its proposal to sell thousands of Stingers to Jordan and Saudi Arabia. This view was repeated again when the administration recently withdrew the Stinger from the latest Saudi Arabia arms sale package.

Congress has recognized over the past years that Stingers could function as an ideal terrorist weapon. In the case of Saudi Arabia, elaborate safeguards and security measures have been devised as part of the letter of offer and acceptance in order to protect this weapon from falling into PLO hands. The Saudis allow the PLO to work with their military, and some who are sympathetic to the PLO might allow the Stinger to be stolen or sold.

This is my fear, Mr. President. I have introduced legislation which will prudently safeguard the Stinger missile when it is transferred to resistance efforts around the world. This reflects congressional and the administration's concern regarding the Stinger. This is a terrorism and security issue, not a reflection on the Saudis, Contras, or UNITA.

Secretary Shultz, in response to a question on countering terrorism with measures other than enhanced security and better intelligence, recently said:

> I don't think purely defensive postures are adequate. We must think through as a society other aspects of this problem * * *

This involves preventive and prudent arms control measures now. We need to stop terrorist activities before they start. We must protect Americans both at home and abroad. Arms exported in a reckless manner today could seriously cripple American citizens and interests tomorrow. My legislation is not for or against resistance movements. This is legislation for America and American interests.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond the hour of 10:25 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPOSING THE PARTICIPATION IN THE JULY 4TH LIBERTY WEEKEND CELEBRATION OF THE CHILEAN TORTURE SHIP "ESMERALDA"

Mr. KENNEDY. Mr. President, I would like to call to the attention of my colleagues a resolution disapproving the participation of the Chilean torture ship *Esmeralda* in our Nation's "July Fourth Liberty Weekend" celebration, upon which I hope the Senate will act quickly and favorably.

Although it has not always been so, the *Esmeralda* today is a ship of shame. It was the site of one of the cruelest chapters in the history of Chile—the brutal torture of over 100 men and women by Chilean authorities in the aftermath of the bloody coup by General Pinochet in September 1973. Because of this heritage of horror, the *Esmeralda* is a continuing symbol of the repression which persists in Chile to this day.

The Statue of Liberty would weep at the sight of the *Esmeralda* entering the gateway of freedom at New York Harbor. This ship is the antithesis of American freedom and should not be permitted to participate in the celebration of America's liberty and democracy.

Nothing in this resolution is intended to detract from the noble heritage of the *Esmeralda* before the tragic events of September 1973. For generations prior to that date, Chile was renowned as one of the most stable and democratic nations in South America.

The name *Esmeralda* itself has a distinguished heritage in Chilean naval history. The original *Esmeralda* was a Spanish frigate captured by Chilean patriots and commissioned in the Chilean Navy in the War for Independence at the beginning of the 19th century. The present ship was built in 1952 as a training vessel to carry on the proud tradition of seamanship in the Chilean Navy.

But on September 11, 1973, a military junta led by Gen. Angusto Pinochet staged a bloody military coup, crushed Chilean democracy, and installed the repressive regime that has ruled in Chile ever since.

On the same day that Gen. Pinochet seized power, the junta rounded up 40 men and 72 women and held them naked in the dungeons of the *Esmeralda*. The prisoners were subjected to brutal torture and interrogation. For a period of nearly 2 weeks, they were beaten, tortured, subjected to electric shock, mock execution, sleep deprivation, and sexual abuse. Throughout this ordeal, the Chilean authorities ruthlessly interrogated the prisoners about their political activities prior to the coup.

Today, the *Esmeralda* is not used for torture. But to the Chilean people, it is a clear and present symbol of the pervasive terror they have endured in the 13-year dictatorship of Gen. Pinochet.

One survivor of the *Esmeralda* nightmare described his feelings about the ship in a sworn statement:

> Up to September 10th, it had been for me, and for ten million Chileans, the "White Lady," the "National Pride." It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today, it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women.

Esmeralda means "emerald," a gem of extraordinary beauty. And the *Esmeralda* is one of the most beautiful

tall ships in the world. Until the cruel coup in 1973, the vessel was a source of patriotic pride for the Chilean nation. But because of the coup that transformed the *Esmeralda* into a torture ship, the vessel no longer represents the people of Chile, or the democracy and freedom for which Chile is striving. Rather, it symbolizes the reign of terror in the days when General Pinochet's repressive regime was born.

Instead of evoking the pride of the Chilean people, the ship summons up memories of dead friends and missing relatives, midnight arrests and mysterious disappearances, detention in unknown locations and represession of a democratic nation.

Current reports by Amnesty International and other human rights groups document General Pinochet's continuing and flagrant attempts to crush any democratic opposition in Chile.

In March, the United Nations Commission on Human Rights condemned Chile's record on human rights and expressed its strong concern over the persistence of serious human rights violations, including disappearances, torture, abuses by security forces, and the denial of fundamental rights.

As long as repression continues in Chile and liberty is denied, the *Esmeralda* should not be welcomed in any celebration honoring America's own Statue of Liberty. On the day democracy returns to Chile, I will invite the *Esmeralda* to return in honor to the United States. But until Chile is free, the sails of that torture ship should not be permitted to darken our waters, let alone cast their abhorrent shadow upon our own precious symbol of liberty.

I hope the Senate will act promptly and favorably on this resolution. The *Esmeralda* is already on its way to New York. My hope is that the ship will turn back, and will choose not to participate in the July Fourth celebration. But in any event, I believe this resolution is necessary at this time. I ask unanimous consent to insert in the RECORD some sworn testimony of survivors of torture on the *Esmeralda* and other materials, and I urge the adoption of the resolution.

I also ask unanimous consent that the text of the resolution and other material in connection with this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, Operation Sail has invited the Chilean naval vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York harbor;

Whereas, the *Esmeralda* is the notorious vessel used for the torture of 112 political prisoners at the time General Augusto Pinochet seized power in a military coup in Chile in 1973;

Whereas, serious violations of basic human rights and civil rights continue in Chile under the Pinochet regime, of which the *Esmeralda* is an unfortunate reminder.

Resolved by the Senate (the House of Representatives concurring),

SEC. 1. The Congress deeply regrets the invitation extended to the Chilean vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York City, and urges Operation Sail to withdraw that invitation.

SEC. 2. A copy of this resolution shall be transmitted forthwith to the Chairman of Operation Sail.

EXTRACTS FROM TESTIMONIES CONCERNING TORTURE THAT TOOK PLACE ON THE CHILEAN NAVAL TRAINING SHIP "ESMERALDA" IN THE PERIOD FOLLOWING THE COUP D'ETAT IN 1973

1. Sworn Statement about tortures suffered on board the "Esmeralda" Training Ship of the Chilean Navy:

"In Israel, Tel Aviv, on April 22, 1976, I, Luis Vega Contreras, Chilean, lawyer, identity card No. 225,571, issued in Valparaiso, state in this sworn statement:

First: During the Popular Unity Government of President Dr. Salvador Allende, I served as an attorney for the Ministry of the Interior. As a Government Attorney, I provided legal counsel to the Governors of the Provinces of Valparaiso and Aconcagua. . . . .

Fourth: At 8:20 p.m. on September 11, 1973, Police Commanders Castro and Stange arrived at my home in the National Defense Building, Pudeto Street 351, accompanied by some officers and a large number of troops and detectives, all armed with machine guns and in numerous vehicles. I was told to accompany them and to take my personal effects which I did. They searched my home.

I was placed in a pick-up truck where I found Mr. . . . ., retired government official.

We then went to get other people among whom I remember Congressman. . . . . and Councilman. . . . . We entered the harbour pier at 9:20 p.m. and Commanders Stange and Castro turned us over to the Commander of the "ESMERALDA". He and other officials were at attention on the main deck of the "ESMERALDA", the training ship of the Navy. There they made us stop in front of the pier where we saw people on the ground or kneeling with their hands behind their heads. A midshipman of Nordic appearance, who I had known to be a member of the fascist-terrorist organization "Patria Y Libertad" (Fatherland and Liberty), without saying a word, hit me in the neck with the stock of his rifle. He then hit me again in the right kidney with his gun. From then on, under kicks, blows and amidst the vilest curses we were taken to the Midshipmen's quarters where we saw a sign of sarcastic humour saying "Entrance forbidden, for members only." I was pushed and thrown on the floor where everything was dark and the light bulbs were covered or painted red. The masks that covered some of the sailors' faces had fluorescent paint. I had hardly gotten up when some marines wearing black hoods tripped us and knocked us to the ground. They placed the muzzle of their rifle on the back of my head and a foot on my back. They did this in the midst of infernal screaming, blows and insults. They ripped off my clothes and took away my valuables. I had a thick gold chain with some trinkets attached, and in order to take it they held me by the hair and pulled it off. I still have the scars of their brutality on my neck. They violently stole it from me. Then, naked, they placed me under a high pressure jet of sea water. This lasted for five or more minutes. Kicking me they removed me from this shower and threw me on the ground. My wrists were tied behind my back and my fingers were individually tied. Thus bound they put me again under the heavy, powerful jet of sea water. The pressure produced an unbearable pain in the head, ears, eyes and lungs. Using lances made from sticks with steel points, they would stab at us to keep us under the water jet.

Later on they threw us on the floor and every fifteen minutes, between kicks and blows from their rifle butts in the so-called Midshipmen's quarters, they would place us under the water jet. As I was beaten, they told me that in my home they had found 10 gold bars, food and that they knew I was in charge of a plot to murder Naval Officers and a leader of the GAP (special security force to protect President Allende). During the 72 hours we were not allowed to sleep due to the water jet, the beatings and a head count taken every 15 minutes. The first night there were seven men in the so-called Midshipmen's quarters and one * * * a flier about a feminist meeting that had taken place one week before. I remember she cried for her husband and children.

We were all naked. At one point we were, according to one count, 40 men and 72 women. The quarters were divided with a canvas, but the women were naked in their hammocks.

The treatment these sailors gave the women was outrageous. They would squeeze their breasts, buttocks and thighs. We could hear the screams of the women and girls protesting these outrages. I saw . . . . ., daughter of . . . . ., a student, ..., of the University, ..., and a friend, ..., who remained calm and dignified amidst such horror. Every one was stripped and placed under the jet of sea water. There was a marine we called the "Bird of Torture", who would constantly bang on the metal doors to prevent us from sleeping. It was impossible to do so anyway because we constantly heard the yelling that came from the torture chambers where electric shocks were applied, the "telephone," [1] and other savage tortures took place. They would yell out the names of those who were to be interrogated by the "inspectors".

I remember a young man whose last name was . . . . . They would take him out three or four times a night and bring him back half unconscious, and his blood would drip over my back and face. I could not dry the blood because during the days I was on board the training ship "ESMERALDA", I was either on my back or facing the floor with my hands always behind my neck. This produced such cramps that it makes it almost impossible to move or walk when one gets up.

On September 13, at about 9 p.m., I was taken to the Officers' quarters on deck where there were 9 members of the combined armed Intelligence and police plus an official of the Bureau of Investigations, though I got the impression that he also belonged to the Navy.

On my way to these quarters the individuals that were guarding me told me I would be immediately shot because I was a Com-

[1] Form of torture where both ears are hit simultaneously, producing great pain.

munist, a traitor to my country and the Armed Forces. They made me stand up against a wall, they kept quiet for a while. One of them made me close my eyes and then cried "fire". Nothing happened.

I had gone into the quarters barefoot, with a cloth over my eyes and completely tied up. They made me remove the cloth and the ropes with which they had tied me up. They gave me a blanket so that I could cover myself, coffee and cigarettes. They interrogated me for four hours about several matters related fundamentally to my work as Interior Security, the files and some problems about pending lawsuits. They had no masks on, and they knew that my functions were exclusively legal and that I belonged to no political party.

But when I was leaving this interrogation, those that were taking me out told me, "We know you have lied and that you are a traitor and we have orders to cast you to the bottom of the sea." They had again covered my eyes. They added "We are going to give you a choice, do you want us to tie your feet with chains or do you prefer to have an anchor attached to your feet?" I answered, "An anchor.'" One of them asked why. I answered, "Because you have very few and they are very expensive." They took me and placed me under the sea water jet; they held me there for a long time; they almost drowned me. Then they showed me . . ., an engineer, who was naked and had a skinned back with wounds that had been produced by banging against the steel pillars in the officers' quarter-deck. The banging was caused by the effects of the electric shocks. He had salt on his wounds, sea salt. I was forced to stand over him and to grind the salt with my feet so that it would seep into the wounds. . . .did not complain and apparently was semi-conscious. I had to do this under the pressure of blows and machine guns.

On September 14, I do not remember the time, I was taken to one of the offices on deck. I could hear the voices of . . . and . . . They put a plastic helmet on my head and asked me, "Do you know who wears this?" "Yes", I answered, "construction workers and miners." "No," he told me. "The Compañero wears it." I asked, "Who is el Compañero?" He answered, "How come you don't know who the Compañero is? Allende, the one who was shot when he took the Moneda (Chilean Presidential Palace). It was taken by our officers and soldiers." This was the first information I had about the death of President Allende. And according to the informant, Salvador Allende had been killed by them.

In Dawson Island I learned what the real circumstances of the tragic death of Salvador Allende, President of Chile, were. Dr. Salvador Allende had "committed suicide" with over thirty-five (35) shots in his body. That time they told me, "Allende had resisted and the soldiers and officers that had taken the Moneda room by room, had been forced to kill him when he refused to surrender."

That same day, the 14th, approximately at sundown, the torturers of our prison told us, "We are going to behave, you'll do some gymnasium." They started with me and . . . As we could hardly get up, we were leaning against some cabinets in order to start doing some exercises, when we heard shots coming from different parts of the city. One of the torturers went on deck and returned saying, "They are going to attack the pier in order to rescue these s.o.b.s", and they started kicking us, hitting us with the butts of their guns, pistols and rubber whips. Sergio Vuskovic was kicked in this way, so that when the International Red Cross arrived at Dawson Island he still had black and blue marks.

The torturers of the midshipmen's quarters told us, "If the Communists get to the Green Door, we'll shoot all of you." I think there was no such shooting. The shots were continuous and they came from machine guns or sub-machine guns, and were aimed toward the hills. They were constant and never changed positions. If there really had been a confrontation, the shooting would have had to be irregular and not constant as it was. And it suddenly stopped completely.

The fear, the screams, the crying of the ladies who were detained next to us cannot be expressed in this declaration. Some of the torturers would say we had to be shot immediately. One could tell they were in a state of hysteria, terror, and cowardliness, bordering on mental distress. Some would say our corpses should be dragged through the streets so that the imaginary terrorists would give up.

Approximately an hour later that night new detainees started arriving. They were accused of having been caught throwing empty machine guns on the ground. According to the accused, after the usual procedure of blows and seawater jet, they had been merely walking in the streets on their way home. They knew nothing of what was going on and they were accused of "having participated in assaults on the regiments." The curious fact is that in the middle of these accusations and charges everyone said, "We only heard shots, but we have not seen anyone shoot anyone and no-one has shot back. The tortures were generalised. Marines would come in. I say marines because they would always identify themselves as such. They would tell us that the "treatment being applied to us was 'Treatment of Prisoners' which they had learned at Las Rocallosas . . . We are brutal, we have been trained at Rocallusas to do this.

On Saturday, the 15th, most of the men, with the exception of a few who were left behind, were taken in Indian file surrounded by guards to the merchant marine ship "MAIPO". On the way we passed hundreds of bound and tortured men lying on the ground, and we could see the decks and holds of the "MAIPO" filled with men kneeling and their hands behind their heads. The guards made us spread our legs and lean against the wall, all the while using one finger to keep our balance. We were rudely and vulgarly insulted by the military personnel and told that we would be immediately shot because they could not waste their time with us. They made us go down to a filthy hold without clothes. There were no bathroom facilities and no water. At about 2 p.m. orders were given to take six of us out, leaving. . . . They were later taken to Pisagua.

We returned on board the "ESMERALDA" with a numerous and heavily-armed guard. We had to walk over hundreds of men and women lying on their stomachs on the pier. Some were kneeling and with their hands behind their heads, some were in groups of five lying down. On top of them and lying across them would be another group of five. In some cases the altitude of this human heap would be as high as five persons, causing the persons on the bottom extreme suffering.

On the main deck of the "ESMERALDA", except at the entrances, passages and bridges, there were lines of men one on top of the other; they were asking for water, crying, complaining of being tired, hungry, in pain. The same midshipman who belonged to "Patria y Libetad" and who hit me when I first went on board, made me lie on top of some construction workers who were accused of having participated in the shooting that had taken place the night before. We were there for a short while because our destiny was different than that of the other detainees. The one who was in charge of us, took us back to our cell, the midshipman's quarters. As we got back, the "Bird of Torture" who was at the bottom of the stairs told us, "Ungrateful men, you left without saying goodbye." And the blows started again. I answered, "You have no idea how delighted we are to get back. We are already acquainted with your hand and everything here. Everything was unknown to us there."

The first day I was excessively hit because among my documents, the personal ones, I had photos of my two sons in military uniforms and with machine guns in their hands. They insisted that my sons were "guerrilleros" (engaged in guerilla warfare) and that I had to tell them where they were so that they could locate the guerillas. But my sons were in Israel and were soldiers there; the pictures were the ones that all young people send their parents. . . .

The next day I was taken to the quarter deck. I realized that there was only one person there. As soon as I arrived, he hit me on the kidneys and gave me a couple of karate blows with his feet on my thighs, stomach, and arms. He stepped on my insteps and he gave me the "telephone". I was tied up to the steel pillar and he gave me electric shocks on my tooth fillings. This produces unbearable pain. He asked me concrete questions about my connections with Officers of the Navy, Police Force and Army, and what connections they had with the Popular Unity Government and with the political parties that formed the Government. He also asked me about the information I had been given about the Armed Forces. He would hit me and ask, "Will you be able to recognize my hands?" I would answer, "Officer, Sir, my eyes are covered, I cannot hear with all this cloth around me and with the blows, besides, one hand hits as well as any other; all hands hit alike." As far as all the officers about whom he questioned me were concerned, from Admirals to Lieutenants and other officers in different branches, my connections with them had been entirely and exclusively of a professional nature and their behavior was strictly professional. With many of them it never went beyond a greeting when I went to Jose Toribio Merino's office. I visited his office on account of matters dealing with the governorships, the Corporation of Development, and the Industry and Medical Machinery Company of Valparaiso.

I could not accept any charges, they were infantile.

I remember that during all that time and in the officer's quarters, they constantly hit Councillor . . . . on his heart. The situation was of indescribable chaos. They made different charges, then they would get confused as to the charges made. They accused the women of belonging to guerilla groups, of being nurses in war hospitals; everywhere there were lamentations, everything was violent, fear and terror. I have seen my friends arrive covered with urine and feces. I have seen and heard ladies who had their period, forced to take their clothes off and put under water in spite of their protests. I have seen, because I could see from my

hammock, when my back was turned, how an Italian citizen called . . . ., was savagely beaten. I have seen and heard my friend . . . . ., a sick man, cry out in pain. He was detained and taken from his bed where he lay sick, thus risking his life. I have seen how a friend of mine, completely removed from any political activity and seriously ill, was beaten. I have seen how people in the midshipmen's quarters were driven insane. (This happened to a young man with a Yugoslavian last name.) I saw Venezuelan, Bolivian, Peruvian, Uruguayan and Argentinian students from the University of Chile and of Santa Maria University, being tortured their hair grotesquely cut with commando knives. I was beaten by the torturers so they could show these young students how brave we Chileans were and how we no longer complained.

On September 18th we were not questioned, but we were hit as we were every other day. That day one of the torturers put on a baseball glove so that "it makes a noise, but it won't hurt." This was the maximum concession to us.

On September 19th I was again taken to the quarterdeck, but this time the man who had applied the electric shocks to me and who was interested in the officers of the Navy and other Defense Branches, was not alone. Other voices could be heard. As soon as I arrived he asked me, "Can you smell shit? A comrade of yours has just defecated with the electric shock." I answered, "I can hardly breathe with the bandages, I can't smell anything." The man told me, "Boy, you are lucky, you son of a bitch, I can't stand the stink anymore." And he started telling me, "You have lied to me all along, dear Luis, you have screwed all those who have interrogated you. You have laughed at me, you think you are tough, but now you are going to face me." I was naked, with my eyes covered and with my hands tied behind my back. He loosened my hands and handcuffed me to the pillar. He told me, "I know you used to practice karate, now we are going to find out what your physical condition is." He hit me in the stomach, liver and shoulders. He told me he had a "hammer" blow (upside down) that no one could resist. And he applied it on each shoulder. He completely paralyzed my two arms. But I did not complain. This was the same man who had tortured me by himself. I could recognize his voice, his blows, the alcohol on his breath, it was an unbearable smell of hard liquor. I will never forget these feelings. He asked me if I hurt. I don't know why I told him that he had not hurt me, not as much as when one hurts oneself when practicing karate on the dome . . . . .

This "inspector" stated that I was lying and that I only intended to defend "Allende the traitor," that I was also a traitor and that I could not fool him. He decided to apply the electric shock again. Now he had helpers. He wanted me to confess and sign a confession. At that particular moment another officer came in and told him that it was unnecessary to apply the electric shock to me because there were different orders connected with me. And this new officer reiterated a proposition that had been made to me before: to cooperate by informing against my comrades and that I would then be able to continue as a civil servant and process those who were acting against the nation's security. This because I was only a civil servant and not a political leader. I expressed again that I was a man of law and a civil servant, but that I always acted according to my conscience and that my conscience told me to continue living as I always had.

Then the "inspector" told me, "Talk." I asked him "What do you want me to talk about?" He said, "Give the reasons why so and so was appointed for such and such a job, tell us about the problems Admiral so and so had with the UP (Popular Unity). And about officers in the other branches of the Armed Forces in National Defense and Security." According to him, this Admiral was also detained. I spoke for about 35 or 50 minutes. Then, at a specific moment, the "inspector" told me, "You know what, my dear Luis, you have tangled me up and confused me more than spaghetti is tangled in a spaghetti meal, you better get back to your hammock." They took me again to the midshipmen's quarters. We could not rest there, during the 24 hours tortured men and women would come in and go out.

A Customs civil servant was tortured on board the "ESMERALDA". This caused such effects that he committed suicide after a beating of tortures. He jumped overboard and drowned.

It was dawn on September 20th, 1973. I lay on my back with my hands under my head, when at about three I was told that I had to get dressed, shaved, and take my few belongings. Everything was returned to me, except the identity card, driver's license, Ministry of the Interior identification, and my gold chain. . . . . and . . . . . and . . . . . and . . . . . and . . . . . and myself were removed in one of the Naval Academy mini-buses, at approximately 4:45 with an incredibly large guard. In the bus a sergeant who was camouflaged told us, "we have orders against you in case you talk or move." That was the last time I saw the "ESMERALDA". Up to September 10th it has been for me and for 10,000,000 Chileans the "White Lady", the "National Pride". It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women . . . . .

From there we were taken to Quintero; the Air Force group 10 was on a plane to Dawson Island. My testimony refers to the ten days that I was a prisoner in the midshipmen's quarters and where I was tortured on the quarterdeck and in other chambers of the "ESMERALDA".

LUIS VEGA.

[From the New York Times, June 2, 1986, by Cynthia Brown]

IT'S LIKE INVITING PINOCHET TO JULY 4

The Chilean ship Esmeralda is one of the world's most beautiful sailing vessels, a four-masted barkentine 353 feet long. She has been invited to participate, in New York Harbor on July 4, in the largest gathering of tall ships in history, and at first glance would seem a natural choice for this honor. It was, however, a terrible—though perhaps unwitting—mistake to invite the Esmeralda to a celebration of liberty and democracy.

The Esmeralda was used by the Chilean Navy as a floating torture center. When she participated in the tall ships celebration in New York in 1976, representing the Chilean Government at our Bicentennial, protestors met her on the docks and journalists took note of her horrifying past. Her participation again on July 4 would profoundly contradict the spirit and symbolism of "Liberty Weekend."

Normally a training vessel, the Esmeralda was converted into a prison on Sept. 11, 1973—the day that the Chilean military overthrew that country's last elected Government. According to survivors, by the end of the day, the hold of the Esmeralda contained at least 40 men and 70 women. Prisoners of both sexes were held naked in the same quarters, forced to listen to the screams of those being tortured elsewhere in the ship.

Amnesty International, the Organization of American States' Inter-American Commission on Human Rights and others have published survivors' descriptions of what went on aboard the ship—the beatings, the use of electric shock, the mock executions and the sexual abuse or women prisoners. As one former prisoner told Amnesty: "The fear, the screams, the crying of the ladies who were detained next to us cannot be expressed. The situation was of indescribable chaos. Everywhere there were lamentations."

That man, a lawyer, was subjected to repeated near-drownings, karate blows and electric shock on board the Esmeralda before being transferred to a concentration camp. Another survivor, the former mayor of Valparaiso, Chile's second largest city, has testified to being blindfolded, beaten, given shocks, deprived of sleep. The Esmeralda was once a symbol of Chilean national pride, of what one former prisoner called "the chivalry of Chilean officers and sailors." Now, even though the Esmeralda was used as a torture chamber for only a relatively short period, she is indelibly identified, in the Chilean mind, with terror and death.

Nor is the kind of torture that took place on the Esmeralda a thing of the past: she would come to New York representing a regime that continues to torture, murder, humiliate and terrify its citizens because they oppose dictatorship. (In one three-week period last month, the Chile military occupied several poor urban neighborhoods, rounding up more than 7,000 people and detaining them for interrogation.)

The Government of Gen. Augusto Pinochet Ugarte would like to use the Esmeralda's participation in "Liberty Weekend" to deny the horror that took place on board and to change Chile's pariah status in the world community. Specifically, the Esmeralda's appearance in New York would do much to soften and undercut our own Government's recent criticisms of the Chilean regime—most notably, the resolution that the United States introduced at the United Nations in March condemning Chile's continuing violations of human rights and calling for democracy. The Esmeralda's participation in "Liberty Weekend" could only forestall the renewal of freedom and dignity in Chile—freedom and dignity that Chileans have not enjoyed for almost 13 years.

The official significance of the ship's participation could not be avoided. The Esmeralda belongs to the Chilean Government, and our State Department helped pass the invitation through official channels. By inviting this notorious ship, and by using the good offices of the State Department to do so, the organizers of "Liberty Weekend" have confused the signals sent by recent United States policy and threatened the integrity of their own celebration. For the sake of the victims—and of our moral consistency—the invitation must be withdrawn.

[From "Tall Ships, The World of Sail Training" by Maldwin Drummond (G.P. Putnam's Sons 1976]

ESMERALDA

The four masted barquentine *Esmeralda* of 3,445 tons displacement, is the training ship for officers and crews of the Chilean Navy.

The name *Esmeralda* was connected for the first time with the Chilean Navy in 1818 during the War of Independence when Commander O'Brien, captain of the 800 ton frigate *Lautaro*, armed with 44 guns, boarded the Spanish frigate *Esmeralda* which was blockading the port of Valparaiso. O'Brien died in the exploit, setting an heroic precedent for future generations of Chilean seamen.

The expedition to liberate Peru invaded El Callao a short time later and finally captured the *Esmeralda*, and she was commissioned into the Chilean Navy. In 1855, with the wars of independence over in South America, the Government of Chile ordered the construction of the second national ship which would bear the name *Esmeralda*. In 1889 a light cruiser was commissioned into the Chilean squadron, being the third national ship to bear the name *Esmeralda*. In 1898, the construction of the fourth *Esmeralda* was ordered. It was one of the most powerful cruisers of its time. In 1946, an anti-submarine frigate was named *Esmeralda* but transferred its name to the sailing vessel, when the latter was commissioned into the Chilean Navy in 1954.

This large barquentine is almost identical to the Spanish four masted, top sail barquentine *Juan Sebastian de Elcano*. They were both designed by the British Yacht designers and builders, Camper & Nicholson of Southampton. Both the Spanish and Chilean Naval Training Ships were built by the yard of Echevarrieta y Larriñaga of Cadiz, the *Juan Sebastian de Elcano* being launched in March, 1927. The *Esmeralda* was laid down in 1942 as the *Juan de Austria* for the Spanish Navy. However, when partially completed, she caught fire, with serious consequences. In 1951, under contract for the Chilean Government, she was rebuilt, launched in 1952 and commissioned in 1954.

The Chileans have always been keen on sail training, regarding it as an ideal medium for instructing their officers and men. The *Esmeralda's* predecessors included *General Baquedano*, a steam auxiliary barque of 2,441 tons displacement and *Lautaro*, the ex Flying P Line steel, four masted barque *Priwall* build for F. Laeisz by Blohm & Voss in 1918. The German barque worked the west coast nitrate trade for her owners until 1926, when she was converted to classic sail training, having further accommodation added to enable her to train while trading. She was in Chile at the outbreak of the Second World War and Germany made a present of her to the Government of Chile, as a token of their long friendship. The Chilean Government handed her to the Navy which named her *Lautaro*.

The barquentine *Esmeralda* was built to carry on the tradition. Her total complement of over 300, includes 100 midshipmen and 90 seamen second class. She covers more miles than most training ships. When she visited Sydney in 1961, she was the largest sailing vessel to come to that port for 50 years.

Esmeralda took part in 'Operation Sail' in 1964, sailing into the port of New York in company with the rest of the fleet after the Tall Ships Race had ended at Bermuda.

The Chilean vessel carries no fore and aft rig on the foremast and is, therefore, a barquentine. He fore and aft sails are secured to the mast by hoops. The bridge is on top of the deck house forward of the mainmast.

Esmeralda can manage 12 knots under power from her 1,500 hp Burmeister and Wain diesel engine. The exhaust from this is carried neatly up the lower jigger mast in the manner of the *Juan Sebastian de Elcano*. She carries four, 5.7 centimetre guns and her white hull is decorated by a large figurehead of Chile's national bird, the Condor.

Owners: Chilean Navy.
Place of building: Cadiz.
Rig: 4-masted barquentine.
Draught (feet): 28.5
Beam (feet) 43.0
Designer: Camper & Nicholson.
Year of building: 1952.
Construction: Steel.
Tonnage: 3,222 Disp.
Builders: Echevarrieta y Larrinaga.
Build for: Chilean Navy.
L.O.A. (feet): 308.8
Present Nationality: Chilean.

U.S. SENATE,
Washington, DC, June 11, 1986.

EMIL MOSBACHER,
Chairman, Operation Sail, World Trade Center 2, New York, NY.

DEAR MR. MOSBACHER: We are writing to express our extreme dismay at the inclusion by your organization of the Chilean ship Esmeralda in our nation's July 4th "Liberty Weekend" celebration and to urge you to withdraw the invitation. This ship was the location of brutal torture by the Chilean government in 1973 and it has no place whatsoever in a celebration of liberty, justice and democracy.

The Esmeralda was used for torture by the Chilean military regime when it seized power on September 11, 1973. According to survivors, 40 men and 72 women were held naked in the same quarters of the vessel and underwent beatings, near drownings, electric shock, mock executions and sexual abuses. Those detained were often interrogated about their activities by members of General Pinochet's military regime.

While the Esmeralda is no longer used for such activities, it has become a symbol of the terror and torture which have continued throughout the 13 years of the Pinochet regime. Says, one survivor from the Esmeralda, "Up to September 10th, it had been for me and for 10,000,000 Chileans the 'White Lady,' the 'National Pride.' It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today, it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women . . ."

Human rights abuses in Chile continue unabated. Just last month, the Chilean military arrested 7,000 people and detained them for questioning. The March 14, 1986 Resolution adopted by the United Nations Commission on Human Rights expressed concern at the persistence of serious violations of human rights in Chile such as disppearances, torture, abuses by security forces and the suppression of fundamental rights and freedoms.

To permit this vessel to sail in the waters before the United Nations would fly in the face of the body's resolution condemning Chile's human rights abuses. To permit this vessel to partake in this nation's celebration of democracy, justice, peace and liberty would made a mockery of an event in which all Americans should take pride.

We urge you to withdraw the invitation your organization extended to the Esmeralda and to ensure that no representative of the Pinochet regime takes part in our nation's celebration of liberty and democracy.

Sincerely,
Edward M. Kennedy, Tom Harlain, Alan Cranston, Albert Gore, Jr., Bill Bradley, Paul Simon, Howard M. Metzenbaum, Robert Dole, James Exon, Dennis DeConcini, Paul S. Sarbanes, Carl Levin, John F. Kerry, Dave Durenberger.

Mr. LUGAR. Mr. President, I rise as a cosponsor and in strong support of the resolution before us and urge my colleagues to support it. All of us who have been inspired and moved by the return to democracy of the vast majority of Latin American republics are deeply concerned with the persistence of military rule in Chile, a nation which once pointed the way for practically all of the other nations of the hemisphere in the rule of law, political pluralism, and respect for human rights. Give the long history of relations between the United States and Chile, and the extremely close links which still exist between intellectual, religious, and political leaders of Chile and their counterparts in the American community, and given our desire to have a constructive relationship with them in the framework of free institutions in the future, we cannot but express our consternation at the continued refusal of the Chilean Government to engage in serious dialog with the parties which make up the National Accord.

While Chile must find its way back to democracy on its own terms and in its own way, this does not not mean that the United States can be indifferent to what happens there in the meantime. Nor should the Chilean people doubt what are the preferences and desires of the United States: in this context, the symbolism of the relationship acquires an extraordinary importance. To allow the *Esmeralda*, a Chilean ship used to torture political prisoners in the events surrounding the 1973 coup to participate in, the celebrations attending our own Fourth of July this year, complete with the rededication of the Statue of Liberty, would send precisely the opposite message to the Chilean people than the one which we would have them receive.

I hope the Senate will approve this important resolution.

Mr. HARKIN. Mr. President, I join with my colleague from Massachusetts, Senator KENNEDY, in cosponsoring this resolution urging that the Chilean ship, *Esmeralda*, be denied participation in our Nation's July 4 Liberty Weekend celebration.

The *Esmeralda* has been invited by a private organization, Private Sail, to participate, in New York Harbor on

July 4, in the largest gathering of tall ships in history. It would be a terrible mistake to allow the *Esmeralda* to take part in a celebration of liberty and democracy. Despite its beauty—the *Esmeralda* is one of the world's most beautiful sailing vessel, a four-masted barkentine 353 feet long—the *Esmeralda* has become a symbol of the terror and torture which have continued throughout the 13 years of the brutal dictatorship of General Augusto Pinochet.

Following the military coup of September 11, 1973, the Chilean military regime converted the *Esmeralda* into a floating torture chamber. According to survivors, 40 men and 72 women were held naked in the same quarters of the vessel and underwent beatings, near drownings, electric shock, mock executions, and sexual abuses. Prisoners of both sexes were held naked in the same quarters, forced to listen to the screams of those being tortured elsewhere in the ship.

The *Esmeralda* had once been a symbol of Chilean national pride. Now, because of her misuse by the Pinochet regime, according to one survivor, she is seen as a torture chamber, a flagellation chamber, a floating jail of horror.

In the Chilean mind, she is identified with terror and death—hardly appropriate symbols for the celebration of liberty and democracy that will take place on July 4.

Although torture is no longer practiced on the *Esmeralda*, the Pinochet regime continues to torture, murder, humiliate, and terrify its citizens. Just last month, the Chilean military arrested 7,000 people and detained them for questioning. On March 14 of this year, the United Nations Commission on Human Rights adopted a resolution condemning the Chilean Government for its violations of human rights such as torture, disappearances and the suppression of fundamental rights and freedoms.

To its credit, the Reagan administration played a leading role in drafting and securing the adoption of the United Nations resolution. Equally promising have been the efforts of our Ambassador to Chile, senior diplomat Harry Barnes. However, at a time when abuses by the military regime still occur and when General Pinochet refuses to accept a peaceful transition to democracy, the United States should state its opposition to the *Esmeralda* sailing into New York Harbor.

The Reagan administration and the U.S. Congress must send an unequivocal signal to the Pinochet regime that the old order in Chile must end, that the sordid legacy of terror and torture, which the *Esmeralda* has come to symbolize, will no longer be tolerated.

For decades, the Statue of Liberty has welcomed to our shores millions who have fled from oppression and hardship in their native land. We must not tarnish this shining symbol of American democracy by having her welcome the *Esmeralda*, a symbol of repression and horror for the Chilean people.

ICE CREAM: AS AMERICAN AS (OR ON) APPLE PIE

Mr. HELMS. Mr. President, a very special agriculture product, enjoyed by nearly everyone, is being recognized during the month of July. It's cool and refreshing to the palate, comes in a multitude of flavors, and is as American as apple pie. As a matter of fact, it tastes great on top of apple pie.

Ice cream has become America's favorite dessert and snack food. The average American eats more of it than anybody else in the world—over 44 pints last year.

What does this mean to our dairy farmers? It means that nearly 1 of every 10 gallons of fluid milk produced in the United States goes into the manufacture of ice cream and ice cream-related products.

What role does ice cream play in our agriculture-based food processing industry? The ice cream industry alone employs 18,000 people with an annual payroll exceeding $300 million a year. The retail value of ice cream and related products topped $8 billion in 1985.

Mr. President, we salute the product that puts a smile on everyone's face, conservative and liberal, Republican and Democrat, young and old, all across this Nation. We celebrate July as National Ice Cream Month, and the second Sunday in July is National Ice Cream Day. Most of all we salute the people in the ice cream manufacturing industry who make it all happen.

MESSAGES FROM THE HOUSE

At 12:43 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4515) making supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN of Florida, Mr. FAZIO, Mr. CONTE, Mr. MCDADE, Mr. MYERS of Indiana, Mr. COUGHLIN, Mr. REGULA, and Mr. KEMP as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 207. Joint resolution to designate November 1, 1985, as "National Philanthropy Day."

The message further announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day";

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week"; and

S.J. Res. 321. Joint resolution to designate October 1986, as "National Doen Syndrome Month."

The message also announced that the House has passed the following concurrent resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 131. Joint resolution to designate the week beginning June 15, 1986, as "National Safety in the Workplace Week"; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day";

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week";

S.J. Res. 347. Joint resolution to designate the week beginning June 22, 1986, as "National Homelessness Awareness Week"; and

H.J. Res. 479. Joint resolution to designate October 8, 1986, as "National Fire Fighters Day."

The enrolled joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, June 12, 1986, she had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day";

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week"; and

S.J. Res. 347. Joint resolution to designate the week beginning June 22, 1986, as "National Homelessness Awareness Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 406. A resolution honoring the 125th anniversary of organized camping in the United States;

S.J. Res. 290. A joint resolution to designate July 4, 1986, as "National Immigrants Day";

S.J. Res. 311. A joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week"; and

S.J. Res. 357. A joint resolution to designate the week of September 15, 1986, through September 21, 1986, as "National Historically Black Colleges Week."

● Mr. D'AMATO. Mr. President, I rise today to recognize our Nation's historically black colleges. These have been, and will continue to be, among our Nation's finest institutions of higher learning. I am pleased, therefore, to be an original cosponsor this year, as I have in years past, of a joint resolution respecting America's historically black colleges.

This year's resolution, introduced on June 5 by the distinguished chairman of the Judiciary Committee, Senator THURMOND, has already garnered the support of 54 of my Senate colleagues. With such a strong display of bipartisan support, I am confident that this resolution will soon be discharged from the Judiciary Committee to face speedy passage. It is important that we act soon because it will take time to properly prepare for this year's celebration, which will take place during the week beginning September 15, 1986, as "National Historically Black Colleges Week."

I would like to mention that several Senators, including myself, who are supporting this resolution today, and who have supported this resolution in the past, do not have historically black colleges in their home States. This fact was brought out by the distinguished Senator from South Carolina when he introduced this measure. Nevertheless, our cosponsorship and strong support reflects our understanding and appreciation of the significant contributions these institutions have made to the history and heritage of this great country.

There are 101 historically black colleges located throughout the United States. These institutions of higher learning have a rich heritage and have educated and been associated with some of the most celebrated individuals in our history. Tuskegee Institute, for example, which was created in 1881 by an act of the Alabama State Legislature, was opened by Booker T. Washington. Booker T. Washington served there as principal and instructor for 33 years. And from 1896 to 1943, for a total of 47 years, George Washington Carver was associated with this great institution and was one of its foremost instructors.

Many students have benefited enormously from these historically black colleges, which continue to provide necessary educational curricula through which these students can reach their fullest potential. This is extemely important in today's rapidly changing society. These colleges have graduated 60 percent of our Nation's black pharmacists, 40 percent of our Nation's black attorneys, 50 percent of our Nation's black engineers, 75 percent of the black military officers, and 80 percent of the black members of the judiciary.

Mr. President, I could continue with great pleasure to add and expand to what has already been said about the major contributions made by historically black colleges. I believe, however, that we could express our appreciation better by passing the joint resolution establishing a "National Historically Black Colleges Week." I urge those of my colleagues who have not given their names as cosponsors of this measure to do so at their earliest opportunity.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

William W. Wilkins, Jr., of South Carolina, to be U.S. circuit judge for the fourth circuit;

Stephen F. Williams, of Colorado, to be U.S. circuit judge for the District of Columbia;

Douglas P. Woodlock, of Massachusetts, to be U.S. district judge for the district of Massachusetts;

William D. Stiehl, of Illinois, to be U.S. district judge for the southern district of Illinois;

John E. Conway, of New Mexico, to be U.S. district judge for the district of New Mexico;

Edwin M. Kosik, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania;

Karen LeCraft Henderson, of South Carolina, to be U.S. district judge for the district of South Carolina;

James G. Richmond, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years;

James P. Jonker, of Iowa, to be U.S. marshal for the northern district of Iowa for the term of 4 years;

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma;

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada for the term of 4 years.

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

Patricia Diaz Dennis, of Virginia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1980.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LUGAR, from the Committee on Foreign Relations:

J. Edward Fox, of the District of Columbia, to be an Assistant Secretary of State;

G. Norman Anderson, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: G. Norman Anderson.

Post: Ambassador to Sudan.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names: Ian, Robert, and Amy (No spouses), none.

4. Parents names: Gustav E. Anderson (deceased); Signe L. Anderson, none.

5. Grandparents names: Alfred and Hilma Anderson (deceased); Frederick and Elma Sjoeberg (deceased).

6. Brothers and spouses names: William A. and Diane Anderson, none.

7. Sisters and spouses; names: none.

John Dale Blacken, of Washington, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John D. Blacken.

Post: American Embassy, Guinea-Bissau.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names: Lygia X. Blacken, none; Jeffrey W. Blacken, none; Lilian Blacken, none; Michelle L. Blacken, none.

4. Parents names: John L. Blacken, deceased, 1966, none; Marcia L. Blacken, deceased, 1967, none.

5. Grandparents names: John O. Blacken, deceased, 1941; Samuel Fellers, deceased, 1955; Mary Fellers, deceased, 1964.

6. Brothers and spouses names: Raymond L. Blacken, none; Arlene Blacken, none.

7. Sisters and spouses names: Violet Kemp, none; Douglas Kemp, none.

Paul Matthews Cleveland, of Florida, a career member of the Senior Foreign Service, Class of Minister-Counseler, now Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul Matthews Cleveland.

Post: American Embassy Wellington.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none
7. Sisters and spouses names, none.

Patricia Gates Lynch, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Patricia Gates Lynch.
Post: Ambassador to Madagascar.
Contributions, amount, date, donee.
1. Self, Patricia G. Lynch, none.
2. Spouse, William D. Lynch, None.
3. Children and Spouses Names: Pamela T. Gates, None; Lawrence A. and wife, Jamye J. Gates, None.
4. Parents Names: Both parents deceased prior to 1980. William C. Lawrence and Mary Frances Lawrence.
5. Grandparents Names: Both grandparents deceased prior to 1980. William Lawrence and Esadora T. Lawrence: James McNamee and Elizabeth McNamee.
6. Brothers and Spouses Names: William K. Lawrence (Deceased 1983); Evelyn Lawrence, widow, None.
7. Sisters and Spouses Names: Valentine VanKeuren (deceased prior to 1980); Dorothy VanKeuren (sister), None.

Vernon Dubois Penner, Jr., of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Vernon D. Penner, Jr.
Post: Cape Verde.
Contributions, amount, date, donee.
1. Self, none.
2. Spouse, none.
3. Children and Spouses Names: Alexandra and Robert Penner, none.
4. Parents Names: Vernon and Edna Penner, none.
5. Grandparents Names: deceased.
6. Brothers and Spouses Names: none.
7. Sisters and Spouses Names: Paula Colburn, none.

Cynthia Shepard Perry, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Cynthia Shepard Perry.
Post: Ambassador to Sierra Leone.
Contributions, amount, date, donee.
1. Self, $50, 1982, Gov. Clements Campaign, TX; $50, 1983, National Republican Committee; $150, 1984, National Republican Committee; $100, 1985, National Republican Committee.
2. Spouse, $100, 1984, Mondale for President Campaign.
3. Children and Spouses Names: Donna Shepard Ross (unmarried), none; James Otto Shepard, Jr., none; Kathy Shepard, none; Milo Kent Shepard (unmarried), none; Paula Lucille Perry (unmarried), none; Mark Shepard Perry (unmarried), none; James Olden Perry, Jr. (unmarried), none.
4. Parents Names: George and Flossie Norton (deceased 1973), none.
5. Grandparents Names: Walker and Lily Norton (deceased 1947, 1932); Lee and Hattie Phillips (deceased 1930, 1945), none.
6. Brothers and Spouses: George W. Norton, Sr., none; Alberta Norton, none; Orville R. Norton, Sr., none; Ethel Mae Norton none; Walter Norton (deceased 1962), none; James W. Norton (deceased 1984), none.
7. Sisters and Spouses: Madonna Norton Austin, none; Harold Austin, none; Iona Norton Wilcox, none; Theodore Wilcox, none; Hazel Norton Montford, none; Daniel Montford, none; Lillian Norton (deceased 1969), none.
8. Grandchildren and Spouses: Pamela Ross Hill, none; Raymond Hill none; Louis Kent Ross Jr. (unmarried), none.

Chester A. Crocker, an Assistant Secretary of State, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1991;

Edward Noonan Ney, of New York, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1988;

Arch L. Madsen, of Utah, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1987;

James Albert Michener, of Pennsylvania, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1987;

Lilla Burt Cummings Tower, of Texas, to be a Member of the Board for International Broadcasting for a term expiring May 20, 1989;

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ (for himself, Mr. GLENN, Mr. WILSON, Mr. BINGAMAN, and Mrs. HAWKINS):

S. 2547. A bill to amend title XVIII of the Social Security Act to require renal dialysis facilities and other providers of dialysis-related services, devices, and supplies to obtain informed, written consent from medicare patients with respect to the use of reprocessed dialysis devices and supplies; to the Committee on Finance.

By Mr. SPECTER:

S. 2548. A bill to amend the Farmland Protection Act to improve farmland protection by requiring the Secretary of Agriculture to provide technical assistance and farmland easements, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2549. A bill to amend the Internal Revenue Code of 1954 to permit the rollover of gain from the sale of farmland development rights, and for other purposes; to the Committee on Finance.

S. 2550. A bill to amend the Packers and Stockyards Act, 1921, to remedy burdens on commerce in poultry, poultry products and eggs, and protect poultry sellers and growers and egg producers and suppliers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DENTON:

S. 2551. A bill to create a National Center on Youth Suicide under the Office of Justice Programs in the Department of Justice; to the Committee on Governmental Affairs.

By Mr. DECONCINI:

S. 2552. A bill to allow States to increase the maximum speed limit on interstate highways in rural areas to 65 miles per hour; to the Committee on Commerce, Science, and Transportation.

By Mr. GARN:

S.J. Res. 360. A joint resolution to designate July 20, 1986, as "Space Exploration Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself, Mr. GLENN, Mr. WILSON, Mr. BINGAMAN, and Mrs. HAWKINS):

S. 2547. A bill to amend title XVIII of the Social Security Act to require renal dialysis facilities and other providers of dialysis-related services, devices, and supplies to obtain informed, written consent from Medicare patients with respect to the use of reprocessed dialysis devices and supplies; to the Committee on Finance.

(The remarks of Mr. HEINZ and the text of the legislation appear earlier in today's RECORD.)

By Mr. SPECTER:

S. 2548. A bill to amend the Farmland Protection Policy Act to improve farmland protection by requiring the Secretary of Agriculture to provide technical assistance and farmland easements and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2549. A bill to amend the Internal Revenue Code of 1954 to permit the rollover of gain from the sale of farmland development rights, and for other purposes; to the Committee on Finance.

S. 2550. A bill to amend the Packers and Stockyards Act, 1921, to remedy burdens on commerce in poultry, poultry products and eggs, and protect poultry sellers and growers and egg producers and suppliers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. SPECTER and the text of the legislation appear earlier in today's RECORD.)

By Mr. DENTON:

S. 2551. A bill to create a National Center on Youth Suicide under the Office of Justice Programs in the Department of Justice; to the Committee on Governmental Affairs.

YOUTH SUICIDE PREVENTION ACT

● Mr. DENTON. Mr. President, I rise to introduce the Youth Suicide Prevention Act of 1986. The bill would provide the necessary resources to continue the high level of commitment of the Federal Government to address the phenomenon of youth suicide and to focus the concentration of those efforts into a National Center on Youth Suicide. It is particularly appropriate that this bill is introduced during the month that President Reagan has designated as "Youth Suicide Prevention Month."

Mr. President, American children, adolescents, and young adults are killing themselves in ever-increasing numbers. According to the American Psychiatric Association, the incidence of suicide among young people aged 15 to 24 has risen by 300 percent during the last 30 years. Specifically, the rate climbed from 4.1 per 100,000 in the 1950's to 12.5 per 100,000 in 1980. In my home State of Alabama, the rate of suicide has increased 122 percent during the same period.

This year, more than 5,000 young Americans can be expected to take their own lives. As the National Institute of Mental Health recently reported, an American teenager will commit suicide every 90 minutes.

Suicide now trails only accidents and homicides as the leading cause of death for people between the ages of 15 and 24. Even younger children experience problems that lead them to attempt suicide. According to a report prepared by the National Center for Health Statistics, during a 13-year period ending in 1978, there were almost 2,000 documented cases of suicide among children under the age of 14. Recent studies indicate that more than 2 million high school students attempted suicide last year.

In Alabama, according to information provided by the Alabama Department of Public Health, Bureau of Vital Statistics, 264 children took their own lives during a 10-year period ending in 1984. Preliminary figures from the bureau show that 33 young Alabamians committed suicide in 1985.

Unfortunately, researchers state that the statistics represent only the "tip of the iceberg." Some experts estimate that the actual number of the suicides among young people is at least four times greater than is reported.

Youth suicide is a phenomenon that is so perplexing, contradictory, frightening, and troubling that our society avoids addressing it. As individuals and as a nation, we refuse to believe that young people emerging from childhood can feel the degree of sadness, hopelessness, and despair that leads to suicide.

Many teenagers experience strong feelings of stress, confusion, and self-doubt associated with growing up, and the pressures to succeed combined with economic uncertainties can intensify these feelings. For some teenagers, divorce and the breakup of the family, the formation of a new family with stepparent and stepsiblings, the death of a loved one, or moving to a new community and school can be very unsettling and intensify their self-doubts. In some cases, suicide appears to be the only "solution."

It is clear that youth suicide is a problem of epidemic proportions, but it is equally clear that there is no single answer or program to solve the problem. It is not exclusively a Federal problem, or a State problem, or a public problem. It is a problem for all of us, and a problem that calls for the involvement of all segments of our society.

As a caring nation concerned about the future of our young people, we must help. The children that we have already lost to suicide include some of the best and brightest of their generation.

Youth suicide is a problem of nationwide scope. It can only be solved through the combined efforts of individuals, families, communities, organizations, and Federal, State, and local governments to educate our society about what can be done.

As part of the combined effort, the Federal Government has taken the lead in raising public awareness by conducting research, compiling national statistics, and developing demonstration treatment models. The Federal effort has seen President Reagan sign into law Senate Joint Resolution 53, which I introduced, designating June 1985 as "Youth Suicide Prevention Month," and Senate Joint Resolution 266, which I also introduced, designating June 1986 as "Youth Suicide Prevention Month."

The effort has also seen the Reagan administration spearhead the National Conference on Youth Suicide, held in June 1985, with the stated objectives of increasing national awareness of the problem of youth suicides and encouraging expanded, community-based strategies for addressing the problem. The conference called upon experts in the mental health profession to explain the problem and inform the Nation of the latest research and treatment advances.

Youngsters and parents whose lives have been directly affected by the tragedy of suicide were also called upon to provide insight into what might be done in the family and in the community to prevent the further senseless waste of young lives. By all accounts, the conference was a tremendous success. In fact, many participants returned to their communities and, with the knowledge obtained from the conference, established suicide prevention programs.

To assist other communities, the Youth Suicide National Center, in conjunction with the Office of Human Services, Administration for Children, Youth, and Families, of the Department of Health and Human Services, has compiled for dissemination the findings and recommendations of the conference. I note that the findings and recommendations will be published within 1 year of the conference, thereby recognizing the urgency associated with the problem. In sum, the administration has been involved in an effort to address the tragedy of youth suicide in an expedited, cost-efficient and effective manner.

The effort by the administration has also seen sponsorship of a conference on psychobiology of suicidal behavior, the creation of a Department of Health and Human Services Secretarial Task Force on Youth Suicide, as well as a number of discretionary projects funded by the Office of Human Development Services.

The administration has taken into consideration the fact that the first line of prevention, identification, and intervention, must come from parents and local institutions with which youngsters come into everyday contact: Schools, churches, volunteer and youth service groups, recreational clubs, PTA, and so forth. The efforts of the Reagan administration are currently strengthening that first line of defense against youth suicide.

Mr. President, the bill I am introducting today will provide the necessary resources to continue the high level of commitment of the administration and to focus the concentration of those efforts into a National Center on Youth Suicide. As drafted, the bill would establish the center under the Office of Justice Programs in the Department of Justice. I do note, however, that hearings may lead to the conclusion that the center should be established under the Department of Health and Human Services. The Center would operate as a clearinghouse and would have the following functions:

First, facilitating an effective coordination among all federally funded programs relating to youth suicide prevention;

Second, conducting a national public awareness campaign;

Third, creating a national resource center and clearinghouse; designed to "one, provide technical assistance to local and State governments, public and private nonprofit agencies, and individuals in preventing youth suicide; and "two, disseminate nationally, information about innovative and model youth suicide prevention programs, services, research and legislation;

Fourth, developing and implementing regional and national workshops and conferences; and

Fifth, establishing a liaison with youth- and family-oriented organizations, professional associations, and other private sector participation to enhance youth suicide prevention efforts.

Mr. President, with the continuance of the high degree of Federal commitment concentrated in a National Center on Youth Suicide, together with the support of individuals, families, communities, churches, organizations, and State and local governments, children and teenagers who are suicidal can be restored to a more healthful path of development. If these efforts can save one child's life and prevent the agony suffered by the family of a child suicide, then we will have accomplished a great deal.

Mr. President, I urge my colleagues to support the Youth Suicide Prevention Act.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

Thank you, Mr. President.

There being no objection, the bill was ordered to printed in the RECORD, as follows:

S. 2551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Suicide Prevention Act of 1986".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the youth of our country represent the hope for our future;

(2) the rate of youth suicide has increased more than threefold in the last three decades;

(3) over five thousand young Americans took their lives last year, many more attempted suicide, and countless families were affected;

(4) youth suicide is a phenomenon which must be addressed by a concerned society;

(5) youth suicide is a national problem which must be solved through the combined efforts of individuals, families, communities, churches, organizations, and government to educate society; and

(6) as part of the combined effort, the Federal Government is in the process of conducting research, compiling national statistics, and conducting national conferences on the subject of youth suicide.

(b) POLICY.—It is therefore the declared policy of the Congress to provide the necessary resources to continue the Federal Government's high level of commitment to preventing youth suicide and to concentrate those efforts into a National Center on Youth Suicide.

SEC. 3. ESTABLISHMENT OF CENTER.

(a) ESTABLISHMENT.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3712) is amended by adding at the end thereof the following:

"NATIONAL CENTER ON YOUTH SUICIDE

"SEC. 103. (a) The Assistant Attorney General shall provide for the operation of a clearinghouse, to be known as the 'National Center on Youth Suicide,' the functions of which shall include—

"(1) facilitating an effective coordination among all Federally funded programs relating to youth suicide prevention;

"(2) conducting a national public awareness campaign;

"(3) creating a national resource center and clearinghouse designed to—

"(A) provide technical assistance to local and State governments, public and private nonprofit agencies, and individuals in preventing youth suicide; and

"(B) disseminate nationally, information about innovative and model youth suicide prevention programs, research, services, and legislation;

"(4) developing and implementing regional and national workshops and conferences; and

"(5) establishing a liaison with youth and family oriented organizations, professional associations, and other private sector participation to enhance youth suicide prevention efforts.

(b) DUTIES OF ASSISTANT ATTORNEY GENERAL.—Section 102(a) of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a)) is amended—

(1) in clause (5) by striking out "and" after the semicolon;

(2) by redesignating clause (6) as clause (7); and

(3) by inserting after clause (5) the following:

"(6) provide for the operation of the National Center on Youth Suicide as provided in section 103; and".

SEC. 4. AUTHORIZATION AND CONFORMING AMENDMENT.

(a) AUTHORIZATION.—Subsection (a) of section 1001 of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3793 (a)) is amended by adding at the end thereof the following:

"(7) There is authorized to be appropriated such sums as may be necessary for each fiscal year 1987 and 1988 to operate the National Center on Youth Suicide as provided in section 103.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end of part A the following new item:

"Sec. 103. National Center on Youth Suicide.".

By Mr. DECONCINI:

S. 2552. A bill to allow States to increase the maximum speed limit on interstate highways in rural areas to 65 miles per hour; to the Committee on Commerce, Science, and Transportation.

MODIFICATION OF 55-MILE-PER-HOUR SPEED LIMIT

Mr. DECONCINI. Mr. President, I am introducing legislation today which will change the existing maximum allowable speed on our rural interstate highways. It will allow each State to establish a 65-mph speed limit on rural interstates where no safety hazard is apparent to the traveling public.

In 1974 Congress implemented the 55-mph speed limit as a temporary measure to respond to the concerns about dwindling energy supplies. Mr. President, the 55-mph speed limit has served its purpose well over the past 12 years. It has saved thousands of lives and conserved thousands of barrels of oil. But times and attitudes have changed. Automobile manufacturers are now producing energy efficient cars, and traffic-related fatalities have been reduced because of quality constructed highways, increased use of radial tires, and greater use of safety seatbelts.

There is a growing feeling that the 55-mph speed limit is an unnecessary constraint on motorists and costs money and travel time in some areas. At the same time it is believed that highway safety cannot be assured if the speed limit is raised above 55 mph in congested urban areas. For rural interstates many people feel they can safely, and most do, exceed the speed limit. This bill will satisfy the safety concerns of those who wish to maintain the 55-mph speed limit around cities while allowing those driving long stretches between cities on the interstate to drive at 65 mph.

In a recent report issued by the National Research Council, it was concluded that rural interstate highways represent 6 percent of all mileage posted at 55 mph in the country and these interstates carry about 19 percent of all traffic on highways posted at 55 mph. Although the average speeds are the highest on this system, the fatality rate, per mile traveled, is among the lowest. Rural interstates have been built to the highest design standards of any class of highways. The direction of traffic is separated by wide medians or median barriers that reduce head-on crashes.

Compliance with the current 55-mph law is becoming an increasing burden and is costing State and local law enforcement agencies large sums to enforce. Additionally, this year the Department of Transportation is proposing to cut Federal highway funding in Arizona, Maryland, and Vermont because of growing noncompliance of the "double-nickel" law. Many States, such as Arizona, have enacted laws permitting drivers to travel at speeds of 65 mph with a penalty of only $15 and no points for speeds over 55. In effect, States are condoning the 65-mph speed limit.

I am convinced it is time the Department of Transportation exercised some flexibility on this issue. Passage of this legislation will provide that flexibility. It will ease the restriction and grant States who may wish to alter their speeds on the rural interstates the authority to do so without penalty.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD.

S. 2552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 154 of title 23, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Transportation shall not approve any project under section 106 in a State which has—

"(A) a maximum speed limit higher than 65 miles per hour on any portion of a highway on the Interstate System that is located in a rural area within such State,

"(B) a maximum speed limit higher than 55 miles per hour on any public highway within such State (other than any portion of a highway described in subparagraph (A)),

"(C) a speed limit on any portion of a public highway within such State which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles.

"(2) Subparagraph (C) of paragraph (1) shall not apply to—

"(A) any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon, or

"(B) any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.".

(b) Section 154 of title 23, United States Codes is amended—

(1) by striking out "exceeding fifty-five miles per hour" in subsections (f) and (h) and inserting in lieu thereof "exceeding 55 miles per hour (65 miles per hour in the case of portions of highways described in subsection (a)(1)(A))", and

(2) by striking out "posted at fifty-five miles per hour" in subsection (e) and inserting in lieu thereof "posted at 55 miles per hour, and the percentage of motor vehicles exceeding 65 miles per hour on portions of highways described in subsection (a)(1)(A) with speed limits posted at 65 miles per hour,".

By Mr. GARN:

S.J. Res. 360. Joint resolution to designate July 20, 1986, as "Space Exploration Day"; to the Committee on the Judiciary.

SPACE EXPLORATION DAY

● Mr. GARN. Mr. President, today, we have the opportunity once again to observe what has become a symbol of the American spirit of progress. I am introducing a joint resolution calling for the designation of July 20 as "Space Exploration Day."

At this time of recent national tragedy and introspection, it seems especially fitting to reexamine our priorities and honor the people and programs that have given us so much. The space program has been an unparalleled triumph of consistent determination, technological genius, and personal bravery. July 20, 1986, is the 17th anniversary of the first landing on the Moon, the 11th anniversary of the international Apollo-Soyuz mission, and the 10th anniversary of the first Viking landing on Mars.

The declaration of "Space Exploration Day" has a rich heritage. Indeed, there have been several Presidential proclamations concerning "Space Exploration Day" observances, since President Ford initiated this activity in 1976. Congress has passed this resolution for the past 2 years. For the past 5 years, this growing tradition has achieved nationwide endorsement from all 50 State Governors and the Governor of Puerto Rico.

This resolution commemorates the achievements of the past as well as offers hope for the future. We all are given the opportunity now to formally recognize this program that has significantly enhanced the American and world standard of living. However, the adventures and challenges are not yet over. We are just beginning to explore the feasibility of manufacturing in space, to examine the ecological impacts of natural and manmade events on Earth, and to investigate how events in the universe around us influence the world we live in. These explorations in space offer hope for a better and more peaceful world.

I urge my colleagues to join me in this worthwhile endeavor.●

ADDITIONAL COSPONSORS

S. 1654

At the request of Mr. STEVENS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1654, a bill to amend title 18, United States Code, to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informants providing information leading to arrests in espionage cases.

S. 1917

At the request of Mr. BRADLEY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1937

At the request of Mr. STEVENS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Washington [Mr. EVANS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Vermont [Mr. STAFFORD], and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of S. 1937, an original bill to restrict smoking to designated areas in all U.S. Government buildings.

S. 2101

At the request of Mr. HEINZ, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2101, a bill to recognize the organization known as "Veterans of the Vietnam War, Inc.".

S. 2333

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Georgia [Mr. NUNN], the Senator from Alabama [Mr. HEFLIN], the Senator from Michigan [Mr. LEVIN], the Senator from Arizona [Mr. DECONCINI], the Senator from Delaware [Mr. BIDEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Oregon [Mr. HATFIELD], the Senator from Missouri [Mr. DANFORTH], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

At the request of Mr. DURENBERGER, the names of the Senator from Connecticut [Mr. WEICKER], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2333, supra.

S. 2401

At the request of Mrs. KASSEBAUM, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2401, a bill to prohibit the manufacture or distribution in, or the importation into, the United States of certain firearms.

S. 2403

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of S. 2403, a bill to amend the Internal Revenue Code of 1954 to assure access to health insurance, and for other purposes.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2455, a bill entitled the National Organ and Tissue Donor Act.

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Utah [Mr. GARN], the Senator from North Carolina [Mr. HELMS], and the Senator from North Carolina [Mr. EAST] were added as cosponsors of Senate Joint Resolution 134, a joint resolution to designate "National Safety in the Workplace Week".

SENATE JOINT RESOLUTION 314

At the request of Mr. QUAYLE, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week".

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. HART, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 131, a concurrent resolution expressing the sense of the Congress that the Soviet

Union should immediately provide for the release and safe passage of Naum Meiman and Inna Kitrosskaya-Meiman.

SENATE CONCURRENT RESOLUTION 137

At the request of Mr. HOLLINGS, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Louisiana [Mr. LONG], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Concurrent Resolution 137, a concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a national STORM Program.

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. STEVENS, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of Senate Concurrent Resolution 145, a concurrent resolution to encourage State and local governments and local educational agencies to require quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of Senate Resolution 424, a resolution commending Colonel Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 2070

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of Amendment No. 2070 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

D'AMATO (AND OTHERS) AMENDMENT NO. 2071

Mr. D'AMATO (for himself, Mrs. HAWKINS, Mr. CHILES, and Mr. DECONCINI) proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. . DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

(a) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DENIAL OF FOREIGN TAX CREDIT, ETC. WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) during the taxable year to any country to which this subsection applies, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income for such taxable year from sources within any country so identified.

"(2) COUNTRIES TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any foreign country—

"(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

"(ii) with respect to which the United States has severed diplomatic relations,

"(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

"(iv) which the Secretary of State notifies the Congress under paragraph (3) is a foreign country which repeatedly provides support for acts of international terrorisms.

"(B) PERIOD FOR WHICH SUBSECTION APPLIES.—This subsection shall apply to any foreign country described in subparagraph (A) during the period—

"(i) beginning on the later of—

"(I) January 1, 1987, or

"(II) 6 months after such country becomes a country described in subparagraph (A), and

"(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

"(3) NOTIFICATION OF NATIONS SUPPORTING TERRORISM.—The Secretary of State shall at least once each year notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any foreign country which the Secretary of State has determined repeatedly provided support for acts of international terrorism.

"(4) PART-YEAR RULE.—If this subsection applies to any foreign country for any period less than an entire taxable year, paragraph (1) shall be applied by taking into account only that proportion of the taxes and income described in paragraph (1) for the taxable year as the portion of the taxable year which includes such period bears to the entire taxable year."

(b) DENIAL OF DEFERRAL OF INCOME.—

(1) GENERAL RULE.—Section 952(a) (defining subpart F income) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting lieu thereof ", and", and by inserting immediately after paragraph (4) the following new paragraph:

"(5) the income of such corporation derived from any foreign country during any period during which section 904(i) applies to such foreign country."

(2) INCOME DERIVED FROM FOREIGN COUNTRY.—Section 952 (defining subpart F income) is amended by adding at the end thereof the following new subsection:

"(e) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subsection (a)(5), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 904(i) applies if such income was, without regard to such entities, derived from such country."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

DIXON AMENDMENT NO. 2072

Mr. DIXON proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1415, beginning with line 10, strike out all matter through page 1416, line 4, and insert in lieu thereof the following new section:

SEC. 135. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

(a) IN GENERAL.—Part IX of subchapter B of Chapter 1 (relating to items not deductible), as amended by sections 132 and 133, is amended by adding after section 280I the following new section:

"SEC. 280J. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

"(a) GENERAL RULE.—In the case of an individual, the applicable itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) APPLICABLE ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'applicable itemized deductions' means the itemized deductions (within the meaning of section 63(d)) other than any deduction—

"(1) under section 105(a) for losses described in subsection (c)(3) or (d) of section 65,

"(2) under section 213 (relating to medical deductions), or

"(3) to which section 280I applies."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280J. 1 percent floor on all itemized deductions not otherwise subject to floor."

WEICKER AMENDMENT NO. 2073

Mr. WEICKER proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 2223, beginning with line 10, strike out all matter through page 2224, line 2.

On page 2224, strike out "(4)" and insert in lieu thereof "(3)".

EVANS (AND OTHERS) AMENDMENT NO. 2074

Mr. EVANS (for himself, Mr. GRAMM, Mr. GORTON, Mr. LAXALT, Mr. ABDNOR, and Mr. PRESSLER) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1415, beginning with line 10, strike out all through page 1416, line 4, and insert:

SEC. 135. ELECTION TO DEDUCT STATE AND LOCAL INCOME TAX OR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Paragraph (4) of section 164(a) (relating to deduction for taxes) is amended to read as follows:

"(4) At the election of the taxpayer, either—

"(A) State and local income taxes, or

"(B) State and local general sales taxes."

(b) SPECIAL RULE FOR TAXES IN CONNECTION WITH ACQUISITION OR DISPOSITION OF PROPERTY.—Section 164(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN NONDEDUCTIBLE TAXES.—In the case of any tax which is paid or accrued by the taxpayer in connection with the acquisition or disposition of any property and with respect to which no deduction is allowed under this chapter, such tax shall—

"(A) in the case of the acquisition of property, be included in the basis of such property, and

"(B) in the case of the disposition of property, allowable as a deduction in computing the amount realized on such disposition."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 164(a) is amended by striking out "State and local, and foreign," and inserting in lieu thereof "Foreign".

(2) Section 164(b)(2)(D)(ii) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(4)(B)".

On page 2267, strike out lines 8 through 13, and insert:

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which—

"(i) is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer, and

"(ii) was incurred—

"(I) in acquiring, constructing, or rehabilitating or improving such qualified residence or another qualified residence of the taxpayer,

"(II) to pay for expenses for medical care (as defined in subparagraph (A) or (B) of section 213(d)(1)),

"(III) to pay for expenses of the taxpayer or a child of the taxpayer for tuition and books at an institution of higher education (within the meaning of section 3304(f)), or

"(IV) to refinance any indebtedness described in subclause (I), (II), or (III) to the extent the principal amount of the indebtedness does not exceed the sum of the principal amount of the indebtedness being refinanced and the costs of such refinancing.

MELCHER (AND OTHERS) AMENDMENT NO. 2075

(Ordered to lie on the table.)

Mr. MELCHER (for himself, Mr. ZORINSKY, Mr. BAUCUS, Mr. HARKIN, Mr. HEFLIN, Mr. LEAHY, Mr. ANDREWS, Mr. EXON, Mr. PRESSLER, and Mr. BURDICK) submitted an amendment intended to be proposed by them to the bill H.R. 3838, supra; as follows:

On page 1416, between lines 8 and 9, add a new subsection as follows and renumber the remaining subsections:

"(b) EXCEPTION FOR TAXPAYERS ACTIVELY ENGAGED IN FARMING.—For tax years after December 31, 1986, taxpayers, other than corporations, actively engaged in farming shall not be subject to Section 141(a) above, and shall be permitted to income average as under current law.

(1) ACTIVELY ENGAGED.—A taxpayer shall be treated as being actively engaged only if the taxpayer is involved in the operations of the activity on a regular, continuous, and substantial basis.

(2) FARMING.—The term farming means—

(A) cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, and management of animals) on a farm.

(B) handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated, and

(C)(i) the planting, cultivating, caring for, or cutting of trees, or

(ii) the preparation (other than milling) of trees for market."

On page 1581, after line 24, insert the following new section:

SEC. 326. DENIAL OF USE OF CASH ACCOUNTING FOR ALL CORPORATIONS ENGAGED IN FARMING WITH GROSS RECEIPTS IN EXCESS OF $100,000,000

(A) IN GENERAL.—Subsection (c) of section 447 (relating to method of accounting for corporations engaged in farming) is amended to read as follows:

"(c) EXCEPTION FOR SMALL BUSINESS AND FAMILY CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) a corporation the gross receipts of which meet the requirements of subsection (e), or

"(2) a corporation the gross receipts of which meet the requirements of subsection (e), except that such subsection shall be applied by substituting 'December 31, 1986'; for 'December 31, 1975', and which is—

"(A) an S corporation, or

"(B) a corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family."

(b) CERTAIN CLOSELY HELD CORPORATIONS.—Section 447(h) (relating to exception for certain closely held corporations) is amended by adding at the end thereof the following new paragraph:

"(4) CORPORATIONS HAVING GROSS RECEIPTS OF $100,000,000 OR LESS.—This subsection shall apply only with respect to any corporation the gross receipts of which meet the requirements of subsection (e), except that subsection (e) shall be applied by substituting 'December 31, 1986' for 'December 31, 1975'."

(c) MODIFICATION OF COORDINATION WITH SECTION 481.—Section 447(f) (relating to coordination with Section 481) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (3), in taxable years beginning after December 31, 1987, '4 taxable years' shall be substituted for '10 taxable years'."

(d) EFFECTIVE DATE..—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

● Mr. MELCHER. Mr. President, together with Senators ZORINSKY, BAUCUS, HARKIN, HEFLIN, LEAHY, ANDREWS, EXON, PRESSLER, and BURDICK, I am offering an amendment to retain income averaging for noncorporate farmers and ranchers. The revenue that is lost by this portion of our amendment will be paid for by denying cash accounting to corporations involved in farming with gross receipts in excess of $100 million.

The problem that is corrected by this amendment is to continue to allow farmers and ranchers who have been losing money hand over fist to income average so they can apply future net income—which we fervently hope and pray will be theirs—can be applied to paying off their debts rather than being required to pay more Federal taxes that this bill would require. That is a grievous flaw in this bill and it must be corrected.

The argument for eliminating income averaging by the Finance Committee is that moving from the current personal income rate structure to the two-bracket system in the current tax reform bill removes much of the need for income averaging. Further, they argue that income averaging should be eliminated for the sake of simplicity.

First, the need for income averaging is not eliminated by the shift to two personal income tax brackets. In cases where farmers and ranchers have large swings in income they can still be unfairly penalized. For example, a farmer or rancher who had little or no taxable income in 1985 or 1986, $25,000 in 1987, and then made $75,000 in 1988 would pay $5,500 more in income taxes under the Finance Committee bill than would someone with an income of $25,000 for each of the 4 years. With the debt and cash flow problems on our farms and ranches today, that could quite simply mean the difference between surviving with a line of credit and being forced to go out of business because there had not been sufficient improvement in reducing debt and credit from financial institutions was withdrawn.

Such swings in income are not uncommon. A certified public accountant in Great Falls, MT, analyzed the tax returns of 44 of his noncorporate agricultural clients for the last 3 years and came up with the following information:

	Total net income
1982	$290,027
1983 (loss)	110,073
1984	117,824

This is a 150-percent swing in income between 1982 and 1983 and a 100-percent swing in the opposite direction between 1983 and 1984. Unfortunately, in agriculture today this is more the norm than it is unique and income averaging is needed to see that we don't further increase the tax bill for farmers who have drastic income swings from year to year that are beyond their control.

Another thing that is causing income variations for farmers and

ranchers today is that they are being forced to sell livestock, grain or other assets at low prices and earlier than they had planned in order to increase their cash flow to meet requirements set up by banks and other lenders of agricultural operating loans. This creates "income doubling" in certain years and further exaggerates income variations.

On the second point, there can be no argument that eliminating income averaging simplifies the Tax Code. But, simplification, in and of itself, should not be our goal if in the process it makes the tax system more unfair for individual taxpayers. In this case, retaining income averaging for farmers and ranchers makes the tax systems more fair for them and I am sure that they will be happy to deal with any added complexity in figuring their taxes if it means they can lower their tax bills.

The amendment causes revenue loss in the bill, but is more than made up by denying cash accounting to large farming corporations with gross receipts in excess of $100 million. There are a few such corporations involved in farming and I believe they will otherwise benefit in the bill from lower rates.

Mr. President, this is a fair and balanced amendment to treat the problems caused by income swings, and is a necessary change in this bill needed to make sure that we don't pile yet another load on the backs of rural America. I urge the chairman of the Senate Finance Committee to review this amendment and I hope that he can accept it.●

● Mr. ZORINSKY. Mr. President, I rise in support of our amendment to restore income averaging for our Nation's farmers.

This amendment is straightforward and clear. It does not use any new-fangled tax law to handle the problem. We know income averaging works, we have seen it in action for years. And when it ain't broken, do not fix it.

Repealing the Tax Code's income averaging provision will have a devastating effect on farmers. By its very nature, agriculture involves swings in income, from a peak one year to a valley the next. More than any other sector of our economy, the weather and the marketplace create booms and busts, and the prudent farmer holds his crop off the market until conditions are more favorable. Without income averaging, farmers showing a substantial income 1 year will not be able to offset that gain with previous years of low income or loss.

Without income averaging, a farmer can expect to pay considerably more in taxes than nonfarm taxpayers with similar, but more consistent, incomes. For example, a family of four with an income alternating between zero and $60,000 per year would pay $12,300 more taxes over a 6-year period than a family of four earning $30,000 each year. That is 76 percent more in taxes, even though the incomes would be identical over time. This problem persists under the Finance Committee bill.

The repeal of income averaging would also seriously disrupt the administration's whole-herd dairy buyout program. To reduce surpluses, this program encourages dairy farmers to dispose of their herds during one of three periods stretching through August 1987. Participants will see a large increase in their incomes when they sell their herds. Without income averaging, many of those in the third disposal period will be unfairly penalized because their gains will not be recognized until after income averaging disappears. In addition, those in the second disposal period will be encouraged to sell their herds early to qualify for income averaging. Those sales will severely and unnecessarily disrupt the cattle market later this year.

We pay for the amendment by closing a loophole used by huge corporations with annual sales over $100 million. Under present law, some of these corporations are able to use the cash accounting method. This accounting technique is intended for small family farmers, not multimillion-dollar corporations. With cash accounting, the corporation essentially receives a tax-free loan at the taxpayers' expense.

Mr. President, I ask unanimous consent that an article from the May 5, 1986, issue of Forbes magazine appear in the RECORD at this point. The article clearly describes the extent of this problem.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FUN AND GAMES WITH CHICKEN FEED

(By Ruth Simon)

Most reasonable observers would not call Hudson Foods a family farm. Based in Rogers, Ark., Hudson is now the country's 17th-largest poultry producer. In the fiscal year that ended last Sept. 28, Hudson earned $8.5 million on sales of $185 million. It went public in February, raising $21.3 million.

Your basic family farm? The Internal Revenue Service, not always a reasonable observer, thinks so. As a result, Hudson was able to defer $7.6 million, its entire federal tax bill, last year under long-standing IRS rules. This deferral can be rolled over more or less indefinitely.

Hudson is not a fluke. Others agri-industrial complexes, including $1.1 billion (sales) Tyson Foods and privately held Perdue Farms (estimated sales, $740 million), also routinely receive tax breaks originally intended for family farms. How? By qualifying under some rather arcane rules that allow "family farms" to use cash accounting instead of the accrual accounting the IRS requires most companies to use when computing taxable income. The rules date from 1919, when the Treasury concluded farmers weren't sophisticated enough to use accrual accounting and said they could use cash accounting instead. Big farmers didn't abuse the provisions, because taxes were low. Besides, there weren't many big farms.

The choice of cash or accrual is especially important for livestock farmers because such production costs as feed are incurred well before the livestock is sold.

Consider a chicken farmer. Accrual accounting would require him to report a portion of his feed inventories at the end of each year, while not permitting him to expense the feed until the bird was actually sold. The theory is that the feed is an integral part of the cost of producing the bird. Accrual accounting says income and expenses should be matched, so feed costs should not be deducted until revenue is received.

Cash accounting, in contrast, allows the farmer to report cash expenses and receipts when they actually occur. That means the farmer can immediately deduct the feed as an expense, but he doesn't have to report the chickens as income until they are sold. Expensing in the current period while deferring income to a later period amounts to a tax-free loan to the farmer from the Treasury. The bigger and more profitable the farm, the larger that tax-free loan tends to be.

In 1976 the Treasury argued that agribusinessmen were equipped for the rigors of accrual accounting. Treasury tried to limit cash accounting to farmers grossing less than $1 million annually. That sent the big livestock producers squawking to their congressmen, who chickened out. Even a farm grossing $1 billion or more could be a "family farm." Congress said, if at least 50% of its stock was controlled by a single family. It also carved out exceptions for individuals, partnerships and Subchapter S corporations and for farm corporations controlled by two or three families.

Hudson Foods Chairman James Hudson played those loopholes with the skill of Stephane Grapelli on jazz violin. Hudson, a former Ralston Purina executive, and two other investors bought the business from Ralston Purina in 1972. Hudson bought out his co-investors in 1984, and took the farm public in February.

But note the key: Hudson Foods has 12 million shares outstanding. James Hudson owns outright 7 million of those shares, 58%, and has the right under a revocable proxy to vote an additional 3 million shares owned by his family and company executives. With Hudson effectively controlling 10 million shares—83% of the common—Hudson Farms can do several more public offerings and still qualify as a "family farm."

Hudson cheerfully agrees "it's been a long, long time" since he drove a tractor. But, he says, "Farming, as defined in the tax code, is the production of farm products. It doesn't matter whether you ride a tractor or a horse." In other words, says Hudson, all farmers are created equal and should be treated equally by the IRS.

Springdale, Ark.-based Tyson Foods, the nation's second-largest poultry producer (after ConAgra), is also proving adept at playing by the family farm rules. This $1.1 billion agricompany contracts out chicken production to thousands of small farmers, and it derives more than 60% of its revenues from such "further processed products" as Chicken McNuggets and frozen dinners.

To remain a family farm—but also raise public equity—Tyson recently reincorporated in Delaware, where it can issue two class-

es of stock. The Tyson family will trade its 55% Class A holding for restricted Class B shares that carry ten votes each. Outside shareholders can keep the Class A shares or swap them for Class B, which pays a lower dividend. If only the Tysons make the switch, they will control 92% of the voting rights—far above the magic 50% minimum. Any new stock issued by Tyson will be of the Class A variety.

Important? It is to Tyson. Tyson earned $35 million in the fiscal year that ended Sept. 28. Cash accounting allowed it to defer about $26 million in taxes. That amounted to 78% of Tyson's 1985 federal tax bill.

"We consider ourselves as an umbrella over about 6,000 farms and farm families," says Chairman Don Tyson, defending his use of the family farming rules. "If we didn't have this kind of situation, we couldn't protect those 6,000 farmers."

But do family farmers need such protection? The fact is, cash accounting often works against farmers by making cattle, hogs and certain orchards attractive tax shelters and by encouraging overproduction. "I've seen too many instances where egg producers or others on a cash basis will expand their operation to avoid paying income tax," says Agriculture Secretary Richard Lyng, who was briefly on Hudson Foods' board. "That kind of tax policy has caused family farmers a lot of trouble."

Chuck Hassebrook of the Center for Rural Affairs in Walthill, Neb. agrees. "Cash accounting," he warns, "really distorts supply and demand." And Tyson may soon freeze the amount it defers because tax factors are warping its business decisions.

This seems like just the kind of loophole genuine tax return reform should plug. Indeed, the Administration's reform proposals would have limited cash accounting to companies with less than $5 million in gross receipts. But the big farmers and their lobbyists squawked as in 1976, and congressmen again clucked. Reforming farmers' cash accounting was one of the first proposals to be dropped last year by congressional tax writers.

Mr. ZORINSKY. Mr. President, as the article states, cash accounting by large corporations is "just the kind of loophole genuine tax reform should plug." It encourages corporate farmers to overproduce even though the farm economy already labors under excess supply. Our amendment puts an end to this unfair practice.

I urge my colleagues to retain income averaging for farmers. It would be too expensive to restore income averaging for everyone. The least we can do, however, is restore this provision for a group whose income fluctuates wildly and whose overall economic condition is so depressed. Mounting surpluses, declining exports, rising costs and falling land values have already turned America's heartland into a wasteland. We should not make matters worse through changes in our tax laws. With our amendment, we will correct this problem and make the Finance Committee bill fairer for farmers.●

● Mr. LEAHY. Mr. President, I am pleased to join Senators MELCHER, ZORINSKY, and others in sponsoring this amendment to retain income averaging for some farmers. The amendment is revenue neutral because the tax revenue lost from allowing farmers to continue to use income averaging will be regained by closing a loophole used by some corporations with annual sales of more than $100 million.

H.R. 3838, as reported from the Senate Finance Committee, repeals income averaging. This proposed repeal would have a devastating financial effect on many agricultural producers and disrupt the whole-herd dairy buy-out program that was part of the Food Security Act of 1985.

Many of my colleagues will describe the potential unsettling effect of this proposed repeal on the marketing of agricultural products. Because of the vagaries of the market, farmers rarely have stable income from year to year. Farmers who are good managers hold their crops until market conditions are favorable. Accordingly, farmer will show substantial income variability from year to year. The nature of farming is over coming adversity—from weather, natural disasters, foreign competition, and the everchanging market conditions. The Government ought not to add to the farmer's uncertainty by failing to recognize the special adversity facing agricultural producers.

Dairy farmers in my home State of Vermont, as well as other States, have a specific problem with the repeal of income averaging. Currently, the dairy industry is undertaking a self-help program to reduce the surplus production of milk. The program is known as the "whole-herd buy-out" program. The program provides for participating dairy producers to dispose of their herds during one of three disposal periods: April 1 through August 31, 1986; September 1, 1986, through February 28, 1987; and March 1, 1987, through August 31, 1987. The program is designed to reduce surplus and the capacity to overproduce milk and dairy products.

Dairy farmers enrolled in this program will experience a large increase in their income when they sell their herd, especially since they have not made a profit recently. While most participants will receive their termination payment during 1986, dairy producers selling their herds in the third disposal period will receive their payments in 1987. Without income averaging, many of these "third-period" producers will be unfairly penalized because their gains would be recognized after income averaging is eliminated as a tax option.

This amendment has another aspect. Without the amendment, milk producers in the second disposal period would almost certainly dispose of their herds during the last quarter of 1986, rather than take that income in 1987. Failure to adopt the amendment would result in disruption of orderly marketing of cattle in the second period.

The revenue offset for the amendment is achieved by prohibiting the use of cash accounting by corporations engaged in farming that have gross receipts in excess of $100 million. Cash accounting is an accounting technique intended for small, family farms. Large corporations that use the technique receive, in reality, a tax-free loan from taxpayers.

Mr. President, I urge my colleagues to support the amendment and I hope the Senate will adopt it.●

CHILES (AND OTHERS) AMENDMENT NO. 2076

Mr. CHILES (for himself, Mr. DOMENICI, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. SASSER, Mr. GORTON, Mr. BINGAMAN, Mr. WEICKER, Mr. INOUYE, Mr. HECHT, Mr. LAXALT, Mr. ARMSTRONG, Mr. EVANS, Mr. GRASSLEY, Mr. MATSUNAGA, Mr. PRYOR, Mr. CRANSTON, Mr. FORD, and Mr. GRAMM) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . DEDUCTIBILITY OF STATE AND LOCAL SALES, REAL AND PERSONAL PROPERTY, AND INCOME TAXES.

(a) FINDINGS.—The Senate finds that—

(1) a deduction for State and local taxes has been allowed by Federal income tax law since 1861,

(2) the deduction for State and local taxes is a cornerstone of Federalism, protecting State revenue sources from the effects of double taxation and allowing State and local governments the flexibility to develop tax structures without Federal interference,

(3) elimination of the deduction for State and local taxes would constitute an unjustified Federal intrusion into the fiscal affairs of States and prejudice the right of State and local governments to select appropriate revenue measures,

(4) elimination or restriction of the deductibility of some State and local taxes would encourage States to shift tax levies to taxes which continue to be deductible, increasing the tax burden of certain segments of the population and undermining the ability of State and local governments to raise revenue,

(5) the deduction for State and local sales taxes is the single most popular deduction in the Internal Revenue Code of 1954,

(6) the revenue measures selected by a State should not significantly alter the value of the Federal deduction for State and local taxes paid by its citizens,

(7) sales taxes are used by some State and local governments as general purpose taxes, while other jurisdictions use income and property taxes as general purpose taxes,

(8) funding for public education, the largest category of expenditure for State and local governments, would be affected by any restriction on the deduction for State and local taxes, and

(9) the sales tax is the largest source of revenue for all States combined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any tax reform legislation should preserve the full deduction for

State and local sales, real and personal property, and income taxes.

KASTEN (AND INOUYE) AMENDMENT NO. 2077

Mr. KASTEN (for himself and Mr. INOUYE) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . CHARITABLE DEDUCTIONS FOR NONITEMIZERS.

(a) IN GENERAL.—Subsection (i) of section 170 (relating to rule for nonitemization of deductions) is amended to read as follows:

"(i) RULE FOR NONITEMIZATION OF DEDUCTIONS.—

"(1) IN GENERAL.—In the case of an individual who does not itemize his deductions for the taxable year, the applicable percentage of so much of the amount allowable under subsection (a) for the taxable year as exceeds $200 ($100 in the case of married individuals filing separate returns) shall be taken into account as a direct charitable deduction under section 63.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

"For taxable years beginning in:	The percentage is:
1987 or 1988	50
1989 or 1990	75
1991 or thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1378, line 17, strike out "and".

On page 1378, line 18, strike out the period and insert in lieu thereof a comma and "and".

On page 1378, between lines 19 and 20, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1381, line 13, strike out "and".

On page 1381, line 15, strike out the period and insert in lieu thereof a comma and "and".

On page 1381, between lines 15 and 16, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1384, line 24, strike out the end quotation marks.

On page 1384, after line 24, insert the following new subsection:

"(i) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i)."

On page 1387, line 13, strike out "5 percent" and insert in lieu thereof "12 percent".

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture, Nutrition, and Forestry, has scheduled its second in a series of hearings entitled: "Preparing for the GATT: A Review of Agricultural Trade Issues."

The subcommittee, chaired by Senator BOSCHWITZ, will receive testimony focusing on market development from FAS Cooperators, beginning at 9:30 a.m., and testimony concerning the activities of the Agricultural Export Commission, beginning at 11 a.m.

The hearing will take place on Tuesday, June 17, 1986, in room 332 Russell Senate Office Building.

For further information, please contact the committee staff at 224-2035.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Tuesday, July 22, 1986, at 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Testimony will be received on the following measures: S. 230, for the relief of the city of Dickinson, ND; S. 252, to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, SD; S. 1704, to authorize an increase in the appropriation ceiling for the North Loup Division, Pick-Sloan Missouri Basin Program, NE.

Those wishing to testify or submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Water and Power, U.S. Senate, Washington, DC. For further information, please contact Mr. Russell Brown of the subcommittee staff at (202) 224-2366.

SUBCOMMITTEE ON NATURAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Natural Resources Development and Production Subcommittee of the Senate Energy and Natural Resources Committee.

The hearing will take place on Thursday, July 24, 1986, beginning at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC. Testimony is invited regarding S. 1026, to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

For further information regarding this hearing, you may wish to contact Ms. Ellen Rowan on the subcommittee staff at (202) 224-5205. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Natural Resources Development and Production Subcommittee, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to consider the following nominations: A. David Rossin, of California, to be an Assistant Secretary of Energy (Nuclear Energy); Marshall A. Staunton, of California, to be Administrator of the Economic Regulatory Administration; Theodore J. Garrish, of Virginia, to be Federal inspector for the Alaska Natural Gas Transportation System; and Richard H. Francis, of Virginia, to be president of the Solar Energy and Energy Conservation Bank.

The hearing will take place Tuesday, July 15, 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should contact the Committee on Energy and Natural Resources, room SD-358 Dirksen Senate Office Building, Washington, DC. For further information, please contact David Doane or Gerry Hardy at (202) 224-5304.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 12, to conduct a business meeting to mark up S. 2378, supplemental assistance to the Philippines; further consideration of aid to Northern Ireland; and to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 12, in order to conduct a hearing on Bank Secrecy Act Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 12, in closed session, to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PREPAREDNESS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Preparedness of the

Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 12, to hold a markup of preparedness portions of S. 2199, the fiscal year 1987 DOD Authorization bill, in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Strategic Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate, in executive session, on Thursday, June 12, to hold a markup of strategic and theater nuclear forces portions of S. 2199, the fiscal year 1987, DOD Authorization bill, S. 2218, the fiscal year 1987 DOE National Security Programs Authorization bill, and the fiscal year 1987 authorization request of the Federal Emergency Management Agency for civil defense programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, June 12, in executive session until 12 noon, for the purposes of considering product liability legislation as well as other legislative and executive items on the committee's agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate of Thursday June 12, to hold a hearing on S. 2204, to amend the Land and Water Conservation Fund Act of 1965, as amended, to permit the use of park entrance, admission and recreation use fees for the operation of the National Park System, and for other purposes; S. 2130, to preserve, protect, and revitalize the National Park System.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FELIKS SEREBROV

● Mr. D'AMATO. Mr. President, I rise today to draw attention to the continuing plight of Feliks Serebrov, a founding member of the Moscow Helsinki Group. The group, organized by 11 Soviet human rights advocates, was established on May 12, 1976. The primary purpose of the Moscow Group was to promote human rights in the U.S.S.R. and monitor Soviet violations of the Helsinki Final Act.

Soviet authorities have arrested, detained, imprisoned, and exiled members of the group, including Serebrov. These harsh reprisals underscore Soviet contempt for the concept of human rights and for those who speak out in support of human rights. In addition, they highlight Soviet disregard for their human rights commitments, especially those included in the Helsinki Final Act, which they have voluntarily accepted.

Mr. President, as chairman of the Commission on Security and Cooperation in Europe, I commend the efforts of Feliks Serebrov and his colleagues who have paid dearly for their work on behalf of those denied even the most basic human rights.

Mr. President, I ask that a brief biography of Serebrov be included in the RECORD.

The biography follows:

FELIKS ARKADEVICH SEREBROV

At age 17, Serebrov was arrested for "petty embezzlement"—taking a kilogram of salt from a passing train. Although the penalty for this crime under Stalin was death, he received 10 years imprisonment. Serebrov was amnestied in 1954 but arrested and sentenced again in 1957 for "exceeding the limits of self-defense" (assault). He served one year and seven months of a two-year sentence in a Siberian labor camp. After his amnesty, he worked as a laborer and factory worker.

Serebrov's signature has appeared on numerous samizdat documents—statements and letters in defense of political prisoners—since the early 1970s. In 1976, he became especially active in protests against conditions in psychiatric hospitals and became a founding member of the Working Commission to Investigate the Use of Psychiatry for Political Purposes the following year.

Subsequently, he was harassed by the authorities for his activities with the Commission, and his previous sentence provided an excuse for his arrest on August 22, 1977 on the charge of using "falsified" documents (Article 196 RSFSR Criminal Code). "The "falsified" document was actually his workbook or employment record which contained inadvertently unclear or imprecise information about the 1957-58 period which he served in camp. Before and after Serebrov's arrest, the KGB confiscated Working Commission materials and other letters and appeals from his apartment, none of which bore any relation to the criminal case against him.

On October 12, 1977, Serebrov was sentenced to one year in strict-regimen camp. He completed his term in August 1978, returned to Moscow and resumed his activities with the Working Commission.

Serebrov was arrested in Moscow on January 9, 1981, and sent to Lefortovo Prison. He was charged with "anti-Soviet agitation and propaganda" under Article 70 RSFSR Criminal Code. On July 21, 1981, Serebrov was sentenced to four year strict-regimen camp plus three years exile; he is in Perm Camp 35.●

ROBERT F. JACKSON

● Mr. LUGAR. Mr. President, I ask that my colleagues in the Senate join me in saluting a man who has contributed more than 40 years of dedicated service to the State of Indiana through the planning and development of our water resources. This man is Mr. Robert F. Jackson, who is retiring at the end of July as assistant director of the Department of Natural Resources' Division of Water.

In his unusually long service to the State, Robert Jackson has strengthened many programs for the continued development, protection, and preservation of water resources. He has devoted conscientious attention through his many diverse roles which have proved beneficial to the people of Indiana and the betterment of this vital resource.

His contributions to the State of Indiana have been many. Mr. Jackson began his career in 1946 as an engineering staff member of the Indiana Flood Control and Water Resources Commission, where his first duty was to compile detailed topographical information on potential flood control reservoirs. Within the next 19 years, his industriousness and outstanding leadership abilities enabled him to work as head of all field surveying activities, leader of the commission's flood control planning section, and finally, as head of its planning division in 1962.

When the Indiana Department of Natural Resources was formed in 1965, Robert Jackson, as assistant chief of the Division of Water's Planning Branch, used his extensive knowledge and experience to help build the framework of the division into the successful and integral part of the IDNR as we know it today. In 1967, he was promoted to director of the Division of Water, a position which he served for 16 years.

Throughout the years, Mr. Jackson has been involved in projects such as the Small Watershed Program which ranked third in the Nation; all eight of the U.S. Army Corps of Engineers' flood control and multipurpose reservoirs; many U.S. Geological Survey programs; regulation of construction in floodways; flood plain management, and much, much more.

Robert Jackson has faithfully fulfilled his roles in an attempt to help create a greater, more productive Indiana through his work in water resources. For this reason, I ask my colleagues to commend Mr. Jackson for his many years of dedicated service to the Indiana Department of Natural Resources, and wish him the best retirement possible.●

RABBI RANDALL FALK—A DISTINGUISHED TENNESSEAN

● Mr. SASSER. Mr. President, I rise today to note the retirement this month of Dr. Randall Falk from his post as Rabbi of The Temple, Congregation Ohabai Sholom, in Nashville, TN.

Twenty-six years ago, Rabbi Falk came to Nashville. He quickly became one of the community's leaders, combining calm and common sense with moral vision during the turbulent years of the Sixties. This steady leadership was rewarded with the human relations award from both the National Conference of Christians and Jews and the Metropolitan Nashville Human Relations Commission.

On the national scene, Rabbi Falk has served as an officer of the Central Conference of American Rabbis, as Chairman of its Committee on Justice and Peace, and as Vice Chairman of its Commission on Social Action. In Nashville, he has served as president of the Nashville Association of Rabbis, Priests, and Ministers; president of the Nashville Council of Community Services; member of the board of directors of Leadership Nashville. For many years, he has worked tirelessly in the fields of health and better housing.

For a striking but temporary change of pace, Rabbi Falk will serve a reformed congregation in Wellington, New Zealand, and then return to Nashville for what I hope will be a happy and eventful retirement.

The steadfastness and integrity of Rabbi Falk have meant much to those in the Nashville community and beyond. We are grateful. We wish Rabbi Falk and his wife Edna, together with his three children, Randall Marc, Jonathan David, and Heidi Lu, many happy years ahead.●

WILLIAM J. ANDREWS

● Mr. LUGAR. Mr. President, I ask that my colleagues join me in honoring Mr. William J. Andrews, who for 28 years has contributed immeasurably to the knowledge and quality of water and mineral resources conservation in the State of Indiana. Mr. Andrews will retire from his post as deputy director of the Department of Natural Resources at the end of this month.

William Andrews has served as the sole deputy director of this bureau since the Indiana Department of Natural Resources was created in 1965. While the IDNR has become known as an indispensable institution devoted to the wise management of natural resources, Mr. Andrews has been equally recognized for his significant role in the guidance and development of this branch of government. His many years of dedicated service has provided many satisfying and beneficial programs for the improvement of water and mineral resources and the resolution of resource-related problems which have arisen within the State.

Listing Mr. Andrews' extensive accomplishments is a difficult task, for his successes are many. While his background includes services for the Tennessee Valley Authority and Illinois Division of Waterways, his career in Indiana began in 1958 as senior staff engineer for the Indiana Flood Control and Water Resources Commission. He faithfully served 7 years in this position until his promotion to deputy director.

In his current role, Mr. Andrews has had administrative responsibility for the divisions of water, oil and gas, geological survey, and soil and water conservation. He easily carried the heavy responsibility as technical secretary to the Indiana delegation on the Great Lakes Commission.

As a member and technical secretary of Governor Bowen's Water Resources Study Commission, a position served unerringly for 3 years, William Andrews spent long hours writing and editing two volumes of the commission's results concerning availability and uses of water and recommendations for future water policies in the State of Indiana. These documents have become recognized as milestones in the area of water resources.

In his undying concern for mineral resources, Mr. Andrews accepted the position as technical secretary to the Governor's Soil Resources Study Commission. With the commission, he has investigated alarming soil erosion conditions and made knowledgeable recommendations concerning necessary steps to reduce erosion throughout Indiana by the year 2000.

In the last few years he has assisted Hoosiers in efforts to develop a plan for the future of the Kankakee River basin in northwestern Indiana. The detailed work and suggestions offered by Mr. Andrews have resulted in a progressive water resource management project involving eight counties and an 84-mile river basin.

Despite Mr. Andrews' retirement, he has helped ensure that the Bureau of Water and Mineral Resources will continue smooth operation for many years to come. His hard work and noted professonalism has made an indelible mark on Indiana. I think my colleagues will agree that Mr. Andrews deserves our highest esteem and gratitude.●

CALL TO CONSCIENCE ON SOVIET JEWRY

● Mr. LAXALT. Mr. President, as I did last year, I am pleased to join the Congressional Call to Conscience vigil for Soviet Jews. As we speak today on behalf of the hundreds of thousands of innocent Jews suffering in the Soviet Union, we must remember that they are denied not only this basic freedom to speak on behalf of themselves, but also the many other freedoms we have come to accept and take for granted by virtue of our American birthright.

The Soviet Union tells us that it is slowly loosening its emigration policies. The facts of the matter prove otherwise: The Soviet Union is in direct violation of the Helsinki accords, emigration for Soviet citizens is at a record low, and human rights as we know them do not now exist in the Soviet Union. Further, within the last 6 years, emigration has dropped from nearly 50,000 to 1,140 with the majority of Jews resigned to the limbo of applicant status. We must not allow ourselves to be appeased by token measures such as the release of Anatoly Shcharansky. We must see Mr. Shcharansky's release for what it is—a conciliatory gesture and not the precedent for future emigration that the Kremlin leadership would like us to believe.

My colleagues who have participated in the Call to Conscience Program have provided us with individual cases of families attempting to emigrate from Russia. While this provides insight into numerous atrocities performed against the refuseniks living in Russia, the grim truth is that for every family we recognize, there are thousands of families residing there who are equally suffering. I would like to cite just a few instances of this inhumane treatment.

Vladimir Lifshitz of Leningrad was sentenced to 3 years on false charges of anti-Soviet slander. The charges were clearly meant to intimidate Soviet Jews who engage in international correspondence. Vladimir had his international letters intercepted, confiscated, and used as evidence against him at his trial where, not surprisingly, he was found guilty.

Eduard Gudava of Tblisi, a member of the Phantom Orchestra, was sentenced to 4 years in a labor camp on charges of malicious hooliganism. He had put up a sign on his balcony demanding that the KGB stop harassing his family.

Anatoly Koryagin, a Soviet psychiatrist imprisoned for his active role in the unofficial working commission on psychiatric abuse, was sentenced in 1981 to 7 years in camp and 5 years in exile. At last report, he was severely debilitated due to his treatment in the camp and a prolonged hunger strike.

Lev and Alla Sud of Moscow were denied permission to emigrate. Officials informed them, as well as many others in Moscow, that reunification of families is based only on families in which husband and wife are separated.

Dr. Genis, of Moscow, first applied for emigration and an exit visa over 9 years ago. In order to punish him for

such a request, Soviet authorities have fired him from his job as a mathematician. He was able to find odd jobs as a loader, street sweeper, fireman, zoo watchman, freight car conductor, and, most recently, a janitor in the Moscow subway system. The family is destitute and is barely surviving the trials of refusenik life.

These are only five examples of the rampant discrimination and harassment by the Soviet Government that Soviet Jews are forced to endure. This is why I reiterate the necessity to continue our vigil for those prisoners of conscience who are refused the very same liberties that Americans enjoy every day. There are currently 350,000 Jews who are attempting to emigrate from Russia; many of them have been trying to leave for over 10 years. Not only have they been unable to realize their dream of freedom, but they have paid a tremendous price for merely requesting exit visas.

I urge my fellow Senators and Congressmen to continue this bipartisan effort to denounce publicly the Soviet oppression and intransigence which is intended to terrorize and demoralize Soviet Jews. It is my hope that by continued dedication to this cause, we can in some way improve these people's chance for freedom and reunification with their families. But even if our efforts here today do not result in an immediate change of Soviet emigration policy, it is still important for us to keep the truth about the Soviet regime before the public eye throughout the free world.●

GROWING SUPPORT FOR LIABILITY REFORM

● Mr. KASTEN. Mr. President, a recent article in the Journal of Commerce shows that the tort system is no longer performing its function properly. The article states that many sectors of society, including home builders, real estate appraisers, architects, and others, are adversely affected by current liability laws. The primary purpose of the tort system is to fairly compensate victims of wrongful conduct. But now the system is injuring consumers, the group it purports to protect, by triggering higher product and service prices due to skyrocketing liability insurance premiums. Tort reform is urgently needed to address these frightening problems. I ask that the text of this article be printed in the RECORD. I hope that my colleagues will take note of the pressing need for immediate tort reform.

The article follows:

[From the Journal of Commerce, May 16, 1986]

LIABILITY LAW REFORM PARADE GROWS

(By Leah R. Young)

WASHINGTON.—Home builders, real estate appraisers, architects and public housing authorities have added their voices to the chorus demanding that Congress reform liability law to create a more stable insurance environment.

The Subcommittee on Housing and Urban Affairs of the Senate Banking Committee joined the long list of congressional committees investigating the insurance crisis with hearings Thursday.

Subcommittee Chairman Chic Hecht, R-Nev., indicated that he wants to advise the Senate Judiciary Committee and the Senate Commerce Committee on the interests of the Banking Committee's constituency.

Several witnesses echoed the statements of Richard B. Gaskins, executive vice president of The American Institute of Real Estate Appraisers. He argued that real estate appraisers are being tarred with the brush of other professionals.

"We believe that the crisis in procuring appropriate errors and omissions insurance that is being experienced by the appraisal profession is not the result of an unfavorable loss experience relating to appraisers, but rather, is the result of an unfavorable loss experience relating to other professionals, such as doctors, lawyers and accountants."

Another problem David Allen Daileda of the American Institute of Architects pointed to is the search for a deep pocket when workers are injured and cannot sue their employers over safety under workers compensation laws.

"You may not know that injured construction workers who receive workers compensation often seek to double dip by suing architects," Mr. Daileda said.

"Generally these suits are unsuccessful because architects usually are not responsible for construction site safety. Nevertheless, design professionals have to undergo the expense, not to mention the wear and tear, of defending themselves."

The National Association of Home Builders told the subcommittee that they are also affected by the insurance crisis. Leonard Miller testified for the builders that small companies building 10 or fewer homes annually have had premiums for liability coverage of $300,000 raised from $400-$600 annually to $1,500.

Large builders can only obtain coverage of $5 million instead of $10 million and these halved coverage amounts have been accompanied by double or triple premiums, he said.

The United States Conference of Mayors is asking Congress to develop a multi-faceted program that would include: federal monitoring of the insurance industry, allowing local governments to pool risks across state lines; and tort reform to change liability law to cap legal fees and non-economic damages.

Stephen Chapple, general counsel of the mayors' group, told the subcommittee that reform of joint and several liability, which allows a victim to seek recovery from one or a few defendants, even if their contributions were minor, is also imperative.

This reform is needed to "spare local governments from many a suit and many settlements designed to reach into their deep pocket," he said.

NATIONAL PHILIPPINES DAY

● Mr. SIMON. Mr. President, on June 12 we celebrated National Philippines Day. This year is a very special day, in that we celebrate the great contributions the Philippine people have made to our Nation, as well as their successfull struggle for democracy and freedom. Their struggle was not easy, but was the result of thousands of individual acts of human courage. Their courage came from the dream of democratic government; a dream that proved more powerful than tanks, bullets, and violence. Therefore, this day is a symbol of the power of ideals; the ideals of democracy and freedom.

The United States and the Philippines share a very long and deep-seated relationship and our alliance has been of great benefit to both nations. It is an alliance which spans many decades. The United States and Philippines fought together in World War II and shared many other experiences.

The Philippine people have made great contributions to American culture. The United States needs to continue its relationship with the Philippines. Today, the Philippines needs the support of the United States more than ever. President Aquino needs our help in her goals of economic and social development. Senator LUGAR has proposed to increase aid to the Philippines by $250 million and I strongly support this request for increased aid. Therefore, this is a day not only to celebrate the contributions of the Philippine people, but to renew our commitment to nurture the spirit of a democratic revolution. Let us support President Aquino in her program of economic and political reform.●

SENATE JUDICIARY COMMITTEE APPROVES EDWIN M. KOSIK TO BE U.S. DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

● Mr. HEINZ. Mr. President, I would like to congratulate one of Pennsylvania's finest jurists, judge Edwin M. Kosik of Scranton, whose nomination was reported out of the Senate Judiciary Committee today, clearing the way for a favorable vote by the full Senate as the next U.S. district judge for the Middle District of Pennsylvania.

I am delighted and pleased to lend my unqualified support to his confirmation by the full Senate. His career has been marked by a series of outstanding achievements and by a personal commitment to the principles of justice and freedom that have made our Nation great. While still in his teens, Judge Kosik was awarded two battlefield commission during the World War II. He eventually became one of the youngest company commanders in the European Threatre of Operations.

He has served as a member of the Court of Common Pleas of Lackawanna County for 17 years, most recently as president judge, and he has handed down many significant deci-

sions on a variety of civil and criminal cases.

A former president of his County Bar Association, Judge Kosik has certainly earned the admiration and respect of his peers. I know I could go on and recite his numerous accomplishments, but I will not do so in the interests of time. I will offer just one more thought regarding his qualifications.

First and foremost, Judge Kosik is distinguished by his exceptional level of legal scholarship and rare facility for applying abstract legal opinions to real life situations. I have no reservation about Judge Kosik's knowledge of the law. It is outstanding. His legal opinions are a matter of record. His experience as an assistant U.S. attorney, as an attorney in private practice and as a judge constitute the very best sort of preparation for the responsibilities for which he has been nominated.

I might sum up by saying that Judge Kosik has served the cause of justice with dignity and distinction in his professional life, and has served his family and community as a private citizen with equal commitment and compassion.

Therefore I am proud to strongly endorse his nomination. I urge my colleagues to vote their approval of Judge Kosik when his nomination is taken up as Senate business.●

INCREASING JOBS IN OUR SOCIETY

● Mr. SIMON. Mr. President, I recently reread a letter sent to me, dated January 24, of this year, by Juel D. Drake, the general president of the International Association of Bridge, Structural, and Ornamental Iron Workers.

It is probably as good a summation of where we are and what we must do as anything I have read by a labor leader, business leader, or government leader.

He starts from a base that I agree with completely. He says, "We need a strategy to provide a good, economically productive job to every man and woman who needs and wants one." And from there, he outlines what we ought to be doing.

I am submitting his letter for the RECORD urging my colleagues of both Houses and their staffs to read what he has to say. I know that sometimes things get entered in the RECORD that are not significant. I believe his letter is indeed significant, and I urge your careful attention to it.

I ask that Juel Drake's letter be inserted at this point.

The letter follows:

DEAR SENATOR SIMON: I've taken the liberty of replying to your letter of December 23, 1985. I welcome the challenge you have offered to present our views as to how we might increase the number and quality of jobs in our society. Like you, I think that there is no more important question facing us today.

I'm sure there are many who are more qualified than I to address the technicalities of some of the economic questions involved, but as the representative of more than 154,000 American workers, I have almost daily contact with many of the problems facing our economy as they affect real people and communities. That's a perspective that must have a central role in any economic debate.

THE NEED FOR AN ECONOMIC CONSENSUS

The biggest problem facing us in the economic sphere is our failure to approach the economy from a perspective that takes into account both the present reality and the long-term challenges before us. Our failure to plan ahead, to see the larger picture, to develop a shared vision of the future—one that is solidly based in the present state of the economy—has led to economic and political confusion.

Far too often, we work at cross-purposes. Our right hand does not know what the left is doing and vice versa. We go off on tangents, responding to immediate economic circumstances but with little thought to the long-term consequences. We initiate projects only to drop them a short while later. We flip from one political and economic approach to another in a vain search for some quick and easy solution. We make plans for the future without taking into account the process whereby that future we so eagerly anticipate will actually have to be created.

There was a time when we didn't need to think ahead, a time when we rode the economic crest. Everything was easy then. The economy just seemed to take care of itself.

That time has gone. Today, we face a world of increasing competition, a world in which we must make the maximum use of scarce resources, a world in which our national interest and the interests of our people are not automatically served through the "normal" workings of the economy, a world in which everyone else is thinking ahead and planning for the future.

Today, we too must think ahead—hard as that may be. We must develop a coherent plan for the future and begin to implement it.

We're not talking about centralized planning or some system of state control. That's neither feasible nor desirable. But we do need some way to structure the national debate on economic issues, some mechanism to arrive at a national strategy for dealing with our economic problems, some way to focus public and governmental attention on the kind of economy we want and what we will have to do to get it.

I don't have the precise blueprint as to what that might be—a broad-based national economic council, perhaps—but I do know a few things that must be integral to any such effort;

It must involve all the economic factors—labor, business and the government.

It must operate on multiple levels—national, regional and local.

It must have some power. At the very least it must have access to the decision-making process and sufficient resources to do the kind of job that needs to be done.

It must not be an academic body. Economics is a technical field, but long experience has shown that the important decisions are more political than technical in nature. We do not need more research studies; we need a plan of action and when you talk about action, you're talking about politics.

It must be democratic. We don't need a forum for backroom debates and secret deals. We need public discussion leading to a public consensus on the kind of economy we want and the way in which we intend to get it.

Too much of the present public discussion on economics is based on mythologies. President Reagan, for example, appeals to the image of a past that simply did not exist and offers rhetorically appealing solutions with no chance of working. He can get away with that because people have not been educated about the realities of our economy and the choices facing us.

Economic issues have not been put on the table in a way to make the public understand them—by either side in the political debate. There is no easy way to do that, but the first step must be to increase the level of public involvement in the making of economic decisions.

JOBS

The most important measure of economic performance is jobs. An economy that does not produce enough jobs for its people—no matter what else it does—is not a good and healthy economy.

And we're not talking about just any kind of job, we're talking about good, productive jobs—jobs with a future.

That's been the problem of so many job creating programs of recent years. They did not create good and lasting jobs; they created make-work or temporary jobs.

Such programs may have helped relieve the immediate problems facing out-of-work people, but they did little to address the long-term problem of unemployment. Nor did they necessarily produce lasting benefits for the nation as a whole.

We need a strategy to provide a good, economically productive job to every man and woman who needs and wants one. It must also be a strategy that improves the competitiveness and efficiency of the American economy. We can no longer afford to throw our money away; we must invest it and invest it wisely and in a way that provides maximum benefit to our people—both in the short and the long term.

There is little question that this is going to require some changes in the way we make economic decisions and in the relationship between the public and private sectors. In particular, it's going to require new initiatives and a new ability to plan ahead on the part of the federal government, To believe we can achieve the kind of economy we need in any other way is wishful thinking.

KEEPING WHAT WE'VE GOT

First, we must keep the jobs we already have to the maximum extent possible. We've been losing jobs far too quickly—especially from basic industry and other central economic sectors.

There are those who say that this inevitable, that we must accept the fact that we can no longer be competitive in the industrial sphere and that we must accept our new role as a "service" economy. I'm convinced the case is overstated.

There is no question that many of our industries have real competitive problems, but that does not mean they can't compete.

Again, the problem is that we have never had any comprehensive strategy for maintaining and reinforcing our industrial base and, lacking that, we've sat idly by while some of the essential foundations of that base have been washed away.

Our present problems are not the result of mysterious "market" forces as much as they

are of deliberate investment, marketing and political decisions—or sometimes non-decisions. There is nothing inevitable about our present situation and there is nothing inevitable about our economic future—if we put our minds, our energies and our resources to the task.

It would be a mistake not to do so. We have no future as a "service" economy. That's the path to second class status. That's no legacy to pass on to the generations to come.

A PUBLIC BALANCE SHEET

Part of the problem is how we evaluate economic decisions. By and large, we use a private balance sheet when what we need is a public balance sheet.

A private balance sheet, on the other hand, considers the costs and benefits of decisions in total. It reflects the public commitment to the particular business entity making the decision and to business in general—our investment in roads and bridges, ports and railroads, water and sewer lines—as well as the public impact of the decision.

As such, the public balance includes at least some of the costs of unemployment, lost tax revenues, community deterioration, increased crime, increased demand on social services, higher divorce rates, family breakup, relocation costs and the trauma relocation brings, and all the other public consequences that can derive from private economic decisions.

The idea of the public balance sheet is an extremely useful one in evaluating economic options. Many plant closing decisions, for example, are economically marginal decisions. There have been a number of examples in which a generally profitable operation was not making quite enough profit to justify upgrading and modernizing plant and facilities. The use of a public balance sheet that took into account all the economic impacts associated with a decision to close or not modernize such a plant might produce a radically different conclusion—even perhaps justifying public action to keep the plant open and competitive.

The concept of the public balance sheet certainly has some relevance in evaluating the impact of tax and other investment incentives.

An examination of the public balance sheet, for example, should justify tax provisions that encourage the modernization of existing facilities and the investment of resources in economically dislocated communities far and above other forms of investment.

Our goal should be to factor as many of the costs associated with an economic decision into the making of that decision as possible. Public policy should encourage that process.

Passage of economic dislocation legislation such as that introduced in the last Congress would be an important first step in this direction. But there should be no illusion that it is any more than a step.

In particular, we need legislation with more teeth in it—legislation that really does begin to factor the public costs and the public benefits of economic decisions into the making of those decisions. This may take a while to implement, but it is a goal that needs to be put on the agenda now for evaluation and discussion as to what is the best way to make it a reality.

AN INVESTMENT STRATEGY

An investment is the linchpin of economic development. It is hard to overemphasize this point.

Right now, the public sector channels investment and economic decision-making in many ways. The problem is that there is nothing conscious or deliberate about the process. More often than not, our various ways of influencing investment contradict each other—thus, incentives to encourage investment in depressed areas may be undermined by tax policies that discourage modernization of existing facilities and encourage the relocation of businesses.

We need to become more conscious about how we influence investment decisions.

There are those who will say that this entails "planning," and to some degree it does. But we already have planning in the sense that the public sector directly and indirectly influences private sector investment. The problem is that no one is doing the planning.

There is no way that the government is going to get out of the economy. It can't. No one really wants it to when it comes down to the bottom line. Certainly, almost no one in the business community—at least when it comes to things the government does that are of benefit to them and their business.

The challenge facing us is to impose some logic on the process. This requires establishing goals and developing a shared vision on the kind of economy we want. Only then will we have a framework within which we can effectively evaluate the ways in which we direct and influence our economy.

Establishment of the national economic council mentioned above would be a move in this direction.

I would go even further: We need a public mechanism to direct at least a certain degree of public investment into key economic areas. I'm talking here about some kind of national investment bank that can channel public resources into the development, expansion and modernization of economic sectors with significant potential or importance to the nation.

Obviously, this would include investment in some of the new high technology industries, but it should also include public investment in the modernization or diversification of older industries to make them competitive once again.

Most of the other industrialized nations in the world pursue such a strategy. Japan and many of the European nations, for example, have used just this tactic very effectively.

In addressing the question of economic investment, there is a major question of what should be our purpose. As a beginning, I would suggest three broad goals:

1. To invest in enterprises and economic sectors with the potential of building a stable, long-term economic foundation for the United States. The focus must clearly be on the future.

2. To invest in areas that are going to produce the maximum number of good jobs and that make maximum use of our existing labor and resource pools.

3. To invest in ways that balance our need to remain competitive in the international economy against a clear national need to maintain a minimum level of economic self-sufficiency.

Thus, it may make sense to channel some investment into areas in which we may be only marginally competitive on the international level but which help maintain a strong and secure domestic economy. Basic industries like steel and auto clearly fall into such a category.

REBUILDING OUR PUBLIC INFRASTRUCTURE

Another item at the top of any economic program must be the rebuilding of our national infrastructure. This is the foundation upon which everything else rests.

I'm sure I don't have to tell you what disgraceful shape our roads, bridges, highways, ports, railroads and public water supply systems are in. Reports and studies about the problems facing us in these areas abound. And yet we continue to do almost nothing about the problem.

The rapidly accelerating deterioration of our public facilities threatens the health and well-being of millions of Americans at the same time that it undermines our ability to successfully compete in the world marketplace.

It doesn't have to be this way. Investment in public works and in the maintenance and rehabilitation of our national infrastructure can have a big payoff. It would improve our long-term competitiveness in the world economy—indeed, it is essential to that competitiveness—at the same time that it produces thousands of productive jobs for our people.

We saw the value of this kind of program in the aftermath of the Great Depression, when thousand of workers who would otherwise have been idle were put to work building roads, bridges, public buildings, schools, hospitals and other facilities. These facilities continue to provide the backbone of our national infrastructure. The payoff in that case was both immediate and lasting.

It's a sad commentary on the state of things that almost nothing done in the jobs and public works area in the half-century since has come close to making such a lasting contribution to our national economy.

The rebuilding of our infrastructure will not be cheap. But it will cost us far more to not do it; both in direct dollar terms—because it will have to be done someday—and in terms of the lost opportunities for American business in a world where others are not making that same mistake.

Whatever it takes, we must do it. The decisions we make now will live with us for decades to come. If we fail in our task, if we continue to ignore the foundation of our economic structure, we doom ourselves, our children and generations to come to an uphill battle to regain what we once had in terms of national economic health and competitiveness.

MAINTAINING AN INDUSTRIAL BASE

As I have noted, there is little future in the notion that the U.S. should become a "service" economy.

The provision of various kinds of services—particularly in the financial, educational and technological arenas—has always been an important component of the American economy. But it has never been the central pillar upon which our economy rests. Were it to become so, we will be in serious trouble.

There is little to indicate that a service economy is capable of supporting the American workforce and maintaining the American standard of living.

To be sure, some parts of our society would do well—they always have—but what of the vast majority? What of the millions of workers who now make their living in production industries? Where will the money and resources come from to maintain their standard of living? Or are they going to be doomed to the kind of low-wage, dead-end jobs that characterize much of today's service industries.

Look at the fastest growing job categories. Most are not good jobs. Are they the foundation of a solid economy?

We must not abandon the idea that American workers and American technology can produce goods and products that can effectively compete? We can—if we commit ourselves to the task and pursue it as it must be pursued.

Our agenda must be two-fold: First to protect what economic and industrial base we have left. Second, to build on it, to expand it, to modernize it and make it more efficient, productive and competitive.

These two things go hand in hand. They cannot be separated. If we try to protect our industries from their present inefficiency—often due to their own mistakes or to deliberate multinational investment decisions that have channeled vital resources away from the U.S.—without insisting on improvements in efficiency and productivity, we will only be delaying the inevitable.

Likewise, if we continue to exhort our industries to become competitive—as has been public policy for some time—without taking steps to protect them and to motivate and assist them in achieving that objective, we will simply be whistling in the wind.

This approach has many implications. In the trade area, for example, it dictates an active policy to protect American industries from undue competition.

This however, should not be simpleminded "protectionism." Rather, we need a policy that provides help and assistance to threatened industries—but only if there is action to turn the situation around, only if those industries themselves are committed to making themselves competitive once again.

There must be a return on our investment in protection, in other words, and that return must be reflected in private sector commitment and the investment of additional resources into those threatened economic sectors. If that commitment is not there, then other steps may have to be taken to ensure that industries vital to the long-term health and stability of our nation remain there.

The bottom line assumption in all of this is that we are not captives to blind fate. We have not lost our ability to turn events to our advantage. It's a question of whether we have the will to maintain the standard of living and the economic position we've built over the years and the commitment to take the kind of action that's going to be necessary to do that. For sure, it will not happen by itself.

I thank you, once again, for the opportunity to assist you as you explore these and other topics. Please feel free to call upon me or my staff if we can provide any additional assistance or information.

Sincerely,

JUEL D. DRAKE,
General President.

NAUM AND INNA MEIMAN: A PUBLIC APPEAL

● Mr. SIMON. Mr. President, I just received word today that Naum and Inna Meiman have joined with two other refuseniks in the Soviet Union who are also stricken with cancer to publicly plead for medical treatment.

Inna has a form of spinal cancer that is not treatable in the Soviet Union. Inna has, however, been invited by numerous cancer institutes in the West to obtain treatment. Why are the Soviets allowing Inna Meiman to die? It would be such an easy decision to simply allow her to go abroad to receive treatments that she so desperately needs.

I implore the Soviets to allow Inna and Naum Meiman permission to emigrate to Israel.●

TAX REFORM ACT OF 1986

Mr. DOLE. Mr. President, we have made some progress today and we will make progress tomorrow. I do not expect any votes after 4 p.m. tomorrow.

As we have indicated, if there are any record vote requests on Monday, they will occur beginning at 3:30 p.m. on Monday. I still believe there is not much reason we cannot finish this bill at a daylight hour on Monday. There are not that many amendments pending.

Mr. President, I would hope that our colleagues will certainly be ready if not tomorrow to offer amendments, to offer them on Monday.

Mr. President, I have indicated previously that we do have this unwritten rule that there are no votes after 6 p.m. on Monday. It would be my intention to honor that commitment unless we are within 30 minutes or so of final passage. I would not want anybody to miss that opportunity early Monday evening. But if it looks like it is going on into the evening, we will not have any votes after 6 p.m. on Monday.

ORDERS FOR FRIDAY

Mr. DOLE. Mr. President, the following has been cleared with the distinguished minority leader.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Friday, June 13, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators MURKOWSKI, PROXMIRE, HUMPHREY, MATHIAS, SIMON, CHAFEE, MELCHER, MCCONNELL, MATSUNAGA, and WALLOP.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF H.R. 3838

Mr. DOLE. Mr. President, at the conclusion of routine morning business, we will be back on H.R. 3838, the tax reform bill. We have an amendment pending, the Kasten-Inouye amendment, pertaining to charitable contributions.

□ 2225

I understand from visiting with Senator KASTEN that he will be prepared for a vote on that amendment within an hour. So I advise my colleagues to be present no later than, I would say, 10:45 just to be safe.

There will be votes throughout the day—I guess, if I were guessing, maybe as many as four or five votes between 11 and 4 p.m.

Senator METZENBAUM has a number of transition rules—at least, he will be attempting to strike a number of transition rules. He said there would not be lengthy debate on any of them so I assume there could be a number of votes.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess until the hour of 9 a.m. on Friday, June 13, 1986.

Thereupon, there being no objection, the Senate recessed at 10:24 p.m. until tomorrow, Friday, June 13, 1986, at 9 a.m.